

08:15AM

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,	)	CV-14-5344-BLF
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	NOVEMBER 29, 2016
	)	
ARISTA NETWORKS, INC.,	)	VOLUME 4
	)	
DEFENDANT	)	PAGES 534-819
	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE BETH LABSON FREEMAN  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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APPEARANCES CONTINUED ON NEXT PAGE

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CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

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SAN JOSE, CALIFORNIA

NOVEMBER 29, 2016

P R O C E E D I N G S

(WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE  
PRESENCE OF THE JURY:)

THE COURT: WE ARE ON THE RECORD OUTSIDE THE PRESENCE  
OF THE JURY IN CISCO VERSUS ARISTA. AND WE HAVE A FEW MATTERS  
TO TAKE UP THIS MORNING.

MR. NELSON, I WANT TO THANK YOU FOR THE PROMPT  
COMMUNICATION ON THE MATTERS THAT YOU HAVE RESOLVED, THAT'S  
VERY HELPFUL TO ME, AND AGAIN THE ARISTA BRIEF WAS SUCCINCT AND  
CLEAR AND I ALWAYS APPRECIATE THAT.

LET'S WORK OUR WAY THROUGH THESE MATTERS AND I THINK WE  
HAVE PLENTY OF TIME THIS MORNING, AND IF THERE ARE ANY OTHER  
THINGS THAT HAVE ARISEN, WE CAN CERTAINLY ADDRESS THEM AS WELL.

IN THIS BRIEF, THERE WERE I BELIEVE EIGHT CATEGORIES OF  
MATTERS THAT WERE -- MAYBE SIX -- THAT WERE ADDRESSED TO THE  
COURT AND I WILL JUST GO THROUGH THEM.

THE FIRST CATEGORY REGARDING EXHIBIT 3605 HAS BEEN  
RESOLVED. THE SECOND CATEGORY REGARDING EXHIBIT 4799 HAS BEEN  
RESOLVED. THE THIRD CATEGORY INVOLVING EXHIBITS 249 AND 251  
HAS BEEN PARTIALLY RESOLVED. EXHIBIT 251 IS WITHDRAWN FOR THE  
TIME BEING AND WE NEED TO LOOK AT EXHIBIT 249.

SO THAT'S WHERE I WILL START.

AND WHO FOR ARISTA IS -- MR. FERRALL, IS THIS YOUR JOB?

MR. FERRALL: I AM, YOUR HONOR. AND I SUGGEST WE

08:32AM 1 DEAL WITH THE DECLARATION AND THIS BLOG POST TOGETHER. IF I  
08:32AM 2 COULD PROVIDE A QUICK UPDATE ON THIS.

08:32AM 3 THE COURT: OKAY.

08:32AM 4 MR. FERRALL: HERE'S WHERE WE ARE, YOUR HONOR. AS  
08:32AM 5 YOU KNOW, WE TALKED ABOUT THIS IN THE MOTIONS IN LIMINE.

08:32AM 6 THE COURT: YES.

08:32AM 7 MR. FERRALL: WE HAVE PREPARED A PROPOSED  
08:32AM 8 INSTRUCTION, PER THE COURT'S RULING ON THE MOTIONS IN LIMINE,  
08:32AM 9 THAT COVERS THE FACT THAT IT'S NOT COVERED FOR THE TRUTH OF THE  
08:32AM 10 MATTER ASSERTED, AND THAT IT CANNOT BE -- THE CONTENTS OF THE  
08:32AM 11 DECLARATION CANNOT BE IMPUTED TOUT. THAT'S IMPORTANT TO US.

08:33AM 12 HOWEVER, THE THIRD ASPECT OF THE COURT'S RULING THAT CISCO  
08:33AM 13 CANNOT ELICIT THE FACT THAT GIANCARLO IS THEIR BOARD MEMBER.  
08:33AM 14 WE CONSIDERED THAT FURTHER AND WE DON'T THINK IT'S PRACTICAL TO  
08:33AM 15 DO THAT.

08:33AM 16 THE COURT: I UNDERSTAND.

08:33AM 17 MR. FERRALL: IS THERE ANY CHANCE A JURY MEMBER HAS  
08:33AM 18 DONE ANY RESEARCH, IT'S TOO EASY TO FIND OUT AND THE JURY WILL  
08:33AM 19 HOLD THAT AGAINST US AS IF WE WERE HIDING THAT FACT.

08:33AM 20 SO I DON'T THINK THAT'S PRACTICAL. AND I WOULD LIKE TO  
08:33AM 21 JUST, WITH YOUR HONOR'S INDULGENCE, ALLOW ME TO CONSIDER AGAIN  
08:33AM 22 THE NOTION THAT THIS DECLARATION WAS FILED UNDER SEAL FOR  
08:33AM 23 13 YEARS SO THAT IT WAS NOT A PUBLIC STATEMENT OF ANYTHING  
08:33AM 24 ABOUT CISCO'S INTENTION.

08:33AM 25 THE ONLY THING IT COULD BE RELEVANT TO IS CISCO'S

08:33AM 1 UNDISCLOSED INTENTION ABOUT HOW IT FELT ABOUT THE CLI,  
08:33AM 2 ET CETERA. BUT UNDISCLOSED INTENTION IS NOT RELEVANT TO  
08:34AM 3 ANYTHING IN THIS CASE.

08:34AM 4 WHAT MATTERS IS WHAT DOES CISCO DO PUBLICLY THAT EITHER  
08:34AM 5 ARISTA OR THE REST OF THE INDUSTRY COULD HAVE KNOWN, AND THIS  
08:34AM 6 HAS NO BEAR ON THAT. THAT'S WHY IT'S VERY CONFUSING AND  
08:34AM 7 PREJUDICIAL BECAUSE I THINK WE HAVE TO BRING OUT THE FACT THAT  
08:34AM 8 MR. GIANCARLO IS AN ARISTA BOARD MACHINE.

08:34AM 9 THE COURT: WELL, I GUESS MR. FERRALL, I WASN'T SURE  
08:34AM 10 THAT IT WAS OFFERED FOR THE NARROW PROPOSITION -- THIS WAS  
08:34AM 11 BEING OFFERED TO SHOW CISCO HAD A PUBLIC PROGRAM TO INFORM  
08:34AM 12 OTHERS THAT IT WAS ENFORCING ITS COPYRIGHT RIGHTS. I SAW IT  
08:34AM 13 MORE AS SHOWING THAT THESE WERE BELIEFS THAT CISCO HELD,  
08:34AM 14 POSITIONS IT HELD AS EARLY AS THE DATE OF THE DECLARATION.

08:34AM 15 I WILL HEAR FROM MR. NELSON AND MR. PAK ON IT. LET'S HEAR  
08:34AM 16 EXACTLY WHAT IT'S OFFERED TO PROVE, BECAUSE IT COULD BE OFFERED  
08:34AM 17 IN MANY DIFFERENT WAYS.

08:34AM 18 MR. NELSON: AND YOU ARE EXACTLY RIGHT, YOUR HONOR.

08:34AM 19 AS WE DISCUSSED AT THE MOTION IN LIMINE HEARING. AND THIS  
08:34AM 20 IS IN DIRECT RESPONSE TO ARGUMENTS THAT MR. VAN NEST MADE IN  
08:35AM 21 OPENING WHERE HE SAID THE HUAWEI CASE IS NOT ABOUT CLI, HAS  
08:35AM 22 NOTHING TO DO WITH CLI.

08:35AM 23 THE DECLARATION DIRECTLY CONTRADICTS THAT, SO I THINK  
08:35AM 24 THAT'S CERTAINLY FAIR GAME. THAT'S THE POSITION THAT CISCO  
08:35AM 25 TOOK AT THE TIME. AND SO IT'S TOTALLY RELEVANT TO THAT AS WELL

08:35AM 1 AS THE STATEMENTS THAT CISCO DIDN'T BELIEVE THE CLI WAS  
08:35AM 2 PROTECTABLE, AS WE DISCUSSED.

08:35AM 3 ALSO, THERE'S A COMPLAINT THAT'S ASSOCIATED WITH IT AND THE  
08:35AM 4 DECLARATION REFERENCES BACK TO THE COMPLAINT. THE COMPLAINT IS  
08:35AM 5 PUBLIC AND MAKES EXACTLY THE SAME STATEMENTS, WHICH KIND OF  
08:35AM 6 TIES IN THE RELEVANCE OF THE BLOG FOR A COUPLE OF REASONS. THE  
08:35AM 7 BLOG SAYS STRAIGHT OUT, AND I KNOW THERE'S ITC ISSUES AND WE  
08:35AM 8 CAN DEAL WITH REDACTIONS THIS YOUR HONOR WOULD LIKE TO DO WITH  
08:35AM 9 THAT.

08:35AM 10 THE COURT: SO THE BLOG IS EXHIBIT 249.

08:35AM 11 MR. NELSON: CORRECT. MR. GIANCARLO, AM I  
08:36AM 12 PRONOUNCING THAT RIGHT? YOU KNOW I'M NOT SUPER GOOD WITH  
08:36AM 13 NAMES, IT SAYS HE WAS THE EXECUTIVE IN CHARGE OF THE LAWSUIT,  
08:36AM 14 RIGHT.

08:36AM 15 THE COURT: YOU ARE TALKING ABOUT THE BLOG OR THE  
08:36AM 16 DECLARATION.

08:36AM 17 MR. NELSON: I'M TALKING ABOUT THE BLOG NOW. I WAS  
08:36AM 18 KIND OF DONE WITH THE DECLARATION, ALTHOUGH THE DECLARATION --

08:36AM 19 THE COURT: I'M GOING TO ACTUALLY OPEN UP THE BLOG  
08:36AM 20 BECAUSE I WANT TO LOOK AT IT AGAIN. AND LET'S SEE HOW HARD  
08:36AM 21 THIS -- OKAY. SO I HAVE THE BLOG HERE, AND THIS IS FROM 2014.

08:36AM 22 MR. NELSON: CORRECT.

08:36AM 23 AND YOU WILL SEE INSINUATIONS COMPARING US TO HUAWEI. I  
08:36AM 24 WAS THE EXECUTIVE IN CHARGE OF INITIATING AND PURSUING THE  
08:36AM 25 LAWSUIT AGAINST HUAWEI. I THINK THAT'S AN IMPORTANT THING



08:36AM 1 BECAUSE IT'S NOT JUST THE DECLARATION, THERE ARE STATEMENTS,  
08:36AM 2 EXPLICIT STATEMENTS MADE IN THE COMPLAINT WHICH FRANKLY ARE  
08:36AM 3 VERY PUBLIC STATEMENTS, COMPLAINTS ARE PUBLIC, THIS WASN'T  
08:36AM 4 FILED UNDER SEAL, I'M NOT SURE IF THAT'S EXACTLY POSSIBLE.

08:37AM 5 BUT THE -- AND MR. GIANCARLO IS TIED DIRECTLY TO THOSE AS  
08:37AM 6 BEING THE EXECUTIVE IN CHARGE OF INITIATING AND PURSUING. AND  
08:37AM 7 IN FACT HIS DECLARATION REFERS SPECIFICALLY BACK TO RELEVANT  
08:37AM 8 STATEMENTS IN THE COMPLAINT. SO I THINK IT'S IMPORTANT TO TIE  
08:37AM 9 THOSE THINGS TOGETHER.

08:37AM 10 NOW, THERE'S ONE OTHER PURPOSE WITH RESPECT TO THE BLOG,  
08:37AM 11 AND THIS IS SOMETHING THAT I THINK REQUIRES SOME DISCUSSION  
08:37AM 12 BECAUSE IT IS A RELATIVELY SENSITIVE TOPIC, AND I KNOW  
08:37AM 13 YOUR HONOR'S SENSITIVITY WITH RESPECT TO THE ITC, SO I'M NOT  
08:37AM 14 GOING THERE.

08:37AM 15 BUT MR. VAN NEST, IN OPENING, MADE STATEMENTS THAT SAID  
08:37AM 16 THIS IS DESIGNED TOTALLY FROM SCRATCH, IT'S ALL NEW TECHNOLOGY,  
08:37AM 17 IT'S TRANSFORMATIVE. WELL, WE KNOW THERE ARE MANY OTHER  
08:37AM 18 LAWSUITS THAT HAVE BEEN FILED IN TERMS OF PATENT INFRINGEMENT.  
08:37AM 19 I DON'T NEED TO GET INTO THE LAWSUITS, BUT IN TERMS OF CISCO'S  
08:37AM 20 ASSERTIONS THAT THERE'S MANY OTHER ASPECTS OF THE TECHNOLOGY  
08:38AM 21 THAT HAVE BEEN TAKEN BEYOND JUST THE PATENT THAT'S ASSERTED  
08:38AM 22 HERE.

08:38AM 23 MR. GIANCARLO'S BLOG ACKNOWLEDGES THAT, SO I DON'T NEED TO  
08:38AM 24 GET IN NECESSARILY TO DETERMINATIONS, I'M NOT GOING THAT FAR AT  
08:38AM 25 THIS POINT. DETERMINATIONS THAT OTHER COURTS HAVE FOUND THAT

08:38AM 1 THERE ACTUALLY HAVE BEEN INFRINGEMENT. BUT I DO THINK IT'S  
08:38AM 2 VERY RELEVANT FOR OUR WITNESSES TO BE ABLE TO SAY, AND  
08:38AM 3 MR. GIANCARLO TO BE ABLE TO ESTABLISH THAT YES, THERE ARE OTHER  
08:38AM 4 ALLEGATIONS OUT THERE. IT ISN'T FAIR TO COME IN AND JUST SAY,  
08:38AM 5 WE DIDN'T DO ANYTHING ELSE.

08:38AM 6 THE COURT: SO I'M NOT INCLINED TO ALLOW THE JURY TO  
08:38AM 7 HEAR THAT OTHERS ARE CHARGES ARISTA WITH INFRINGEMENT.

08:38AM 8 MR. NELSON: NOT OTHERS, CISCO. THIS IS SPECIFIC TO  
08:38AM 9 CISCO. I'M NOT TALKING ABOUT OTHER COMPANIES OR ANYTHING LIKE  
08:38AM 10 THAT. THIS IS SPECIFIC TO CISCO TECHNOLOGY, MEANING MR. VAN  
08:38AM 11 NEST HAS REPRESENTED THAT IT'S JUST THE CLI, THAT'S ALL WE ARE  
08:38AM 12 TALKING ABOUT HERE.

08:38AM 13 THE COURT: WELL, THAT IS ALL WE ARE TALKING ABOUT  
08:38AM 14 HERE OTHER THAN THE 526.

08:39AM 15 MR. NELSON: UNDERSTOOD, UNDERSTOOD. BUT IT'S  
08:39AM 16 ALSO -- I DON'T THINK IT'S A FAIR REPRESENTATION OF THE FACTS  
08:39AM 17 OF THE CASE IF OUR WITNESSES ARE NOT ALLOWED TO SAY, WE BELIEVE  
08:39AM 18 THERE ARE OTHER OF OUR PATENTED TECHNOLOGY THAT ARE BEING  
08:39AM 19 INFRINGED.

08:39AM 20 THE COURT: ALL RIGHT. I'M NOT GOING TO LET THIS  
08:39AM 21 CASE TAKE A DETOUR INTO HAVING THE SIDES PROVE INFRINGEMENT OR  
08:39AM 22 NONINFRINGEMENT OF ALL OF THOSE OTHER PATENTS. AND WHEN YOU  
08:39AM 23 DROP THE BOMB OF, AND WE CHARGED YOU WITH INFRINGING OTHER  
08:39AM 24 APPELLANTS, YOU PUT ARISTA IN THE POSITION OF HAVING SHOWN YOU  
08:39AM 25 NONINFRINGEMENT OR INVALIDITY AS A DETOUR IN THE MEAGER

08:39AM 1 22 HOURS THEY HAVE FOR VERY LITTLE PROBATIVE VALUE.

08:39AM 2 MR. NELSON: I UNDERSTAND, YOUR HONOR.

08:39AM 3 AND I UNDERSTAND EXACTLY WHAT YOU ARE SAYING. I DO NOT  
08:39AM 4 WANT TO GO DOWN THAT ROUTE. BUT I ALSO DON'T THINK THAT IT'S  
08:39AM 5 FAIR TO REPRESENT AND TO BE ABLE TO ARGUE THAT THERE'S NOTHING  
08:39AM 6 ELSE, THIS IS A CLEAN SLATE, THIS HAS NOTHING ELSE TO DO WITH  
08:39AM 7 CISCO TECHNOLOGY.

08:39AM 8 I DON'T THINK THAT'S A FAIR ARGUMENT UNDER THE FACTS THAT  
08:39AM 9 YOU AND I KNOW IN THE CASE. SO PERHAPS WE SHOULD BE LIMITING  
08:40AM 10 THE ABILITY OF THEM TO ARGUE AND THEN WE DON'T HAVE TO GET INTO  
08:40AM 11 A CASE LIKE THAT

08:40AM 12 THE COURT: OKAY. AND MAYBE THERE IS ACCOMMODATION  
08:40AM 13 THERE. MR. FERRALL, IT CERTAINLY WOULD PUT, POTENTIALLY PUT  
08:40AM 14 ARISTA IN A FALSE LIGHT TO CLAIM WE ARE CLEAN EVERY WHERE ELSE  
08:40AM 15 EXCEPT THIS BOGUS ALLEGATION WITHOUT LETTING CISCO COME BACK  
08:40AM 16 AND SAY, WELL NOT SO FAST WE GOT ALL THESE DISPUTES LINE THE  
08:40AM 17 UP.

08:40AM 18 MR. FERRALL: WELL YOUR HONOR, WE TALKED ABOUT THIS  
08:40AM 19 AT THE MOTION IN LIMINE. WE ARE FOCUSED ON THE FACTS. WE  
08:40AM 20 DIDN'T COME OUT AND SAY WE'VE NEVER BEEN ACCUSED OF ANYTHING,  
08:40AM 21 JUST LIKE CISCO CAN'T SAY CISCO HAS NEVER BEEN ACCUSED OF  
08:40AM 22 PATENT INFRINGEMENT BY HUNDREDS OF PEOPLE, RIGHT. THAT'S NOT  
08:40AM 23 THE ISSUE OF PROSECUTE THE FACTS CAN BE PRESENTED.

08:40AM 24 SO THE FACTS OF WHAT CISCO DID TO DEVELOP ITS SOFTWARE AND  
08:40AM 25 THAT IT DIDN'T RELY UPON OR LOOK AT, YOU KNOW, OTHER USE,

08:40AM 1 SOURCE CODE, THOSE ARE THE FACTS AND THEY CAN SAY NO, ACTUALLY  
08:41AM 2 WE DEVELOPED THIS FEATURE FIRST, THAT'S THE WAY IT SHOULD PLAY  
08:41AM 3 OUT.

08:41AM 4 THE COURT: STAY AWAY FROM THE EXISTENCE OF LAWSUITS.

08:41AM 5 MR. FERRALL: EXACTLY.

08:41AM 6 THE COURT: ALL RIGHT. WELL, AT THAT LEVEL,  
08:41AM 7 CERTAINLY IN ORDER FOR ARISTA TO PRESENT EVIDENCE OF  
08:41AM 8 TRANSFORMATIVE USE, THEY HAVE TO SHOW THAT THEY DIDN'T JUST  
08:41AM 9 COPY MORE THAN IS CHARGED HERE.

08:41AM 10 SO I'M NOT GOING TO LET YOU BRING FORTH ANY EVIDENCE THAT  
08:41AM 11 SUGGESTS THERE'S OTHER PENDING LAWSUITS, THAT'S PREJUDICIAL, IT  
08:41AM 12 HAS NO PROBATIVE VALUE, YOU KNOW, AT ALL. BUT IF YOU WANT TO  
08:41AM 13 REFUTE THAT BY ESTABLISHING THAT YOU IN FACT HAVE A PATENT AND  
08:41AM 14 IN FACT IT COVERS THIS SUBJECT MATTER, I MEAN, YOU CAN -- YOU  
08:41AM 15 KNOW, STILL YOU ARE GOING TO END UP USING A LOT OF YOUR TIME ON  
08:41AM 16 THIS.

08:41AM 17 MR. NELSON: I UNDERSTAND THAT, YOUR HONOR. I  
08:41AM 18 UNDERSTAND.

08:41AM 19 BUT I THINK OUR WITNESS SHOULD AT LEAST BE ABLE TO DO THAT  
08:41AM 20 BECAUSE I DO THINK IT'S A TOTALLY UNFAIR ARGUMENT THAT MR. VAN  
08:41AM 21 NEST MADE DURING OPENING TO SUGGEST THAT THERE'S NOTHING ELSE.  
08:42AM 22 AND HE DID EXACTLY WHAT WE SAID IN THE MOTION IN LIMINE HE WAS  
08:42AM 23 GOING TO DO, RIGHT UP TO THAT LINE SAID THIS WAS A BOG US  
08:42AM 24 LAWSUIT, DONE NOT BECAUSE IP WAS TAKEN BUT JUST TO PUT UP A  
08:42AM 25 ROADBLOCK FOR COMPETITION AND THAT'S EXACTLY WHAT WE TALKED

08:42AM 1 ABOUT IN THE MOTION IN LIMINE HEARING.

08:42AM 2 THE COURT: OKAY.

08:42AM 3 MR. NELSON: AND I HAVE TO BE ABLE TO REFUTE THAT AS  
08:42AM 4 WELL.

08:42AM 5 THE COURT: ALL RIGHT.

08:42AM 6 MR. VAN NEST: ALL I WAS GOING TO SAY, YOUR HONOR, IS  
08:42AM 7 I THINK YOU HEARD THE OPENING BETTER THAN THEY DID. WHAT I  
08:42AM 8 SAID WAS THE ONLY CLAIM OF COPYING IS THE CLI.

08:42AM 9 THE COURT: YES, THAT'S RIGHT.

08:42AM 10 MR. VAN NEST: NOT ANY OF THE SOURCE CODE. THAT'S  
08:42AM 11 TRUE EVEN IN THE ITC. YOU KNOW DARN WELL THEY COMBED THAT  
08:42AM 12 SOURCE CODE TO SEE WHAT THEY COULD FIND AND THEY FOUND 0. SO  
08:42AM 13 ALL I TOLD THE JURORS WAS THAT THE ONLY CLAIM OF COPYING IN  
08:42AM 14 THIS CASE IS AS TO THE CLI, NOT THE SOURCE CODE INSIDE THE  
08:42AM 15 SWITCH, AND I WILL STAND BY THAT.

08:42AM 16 WE CAN CERTAINLY HAVE A DEBATE BEFORE THE CLOSING ARGUMENT  
08:42AM 17 AS TO WHAT I CAN OR CAN'T SAY. BUT FOR NOW THAT'S WHERE THE  
08:42AM 18 RECORD STANDS AND THAT'S AN ABSOLUTELY TRUTHFUL STATEMENT AND I  
08:43AM 19 HAD YOUR HONOR'S ADMONITIONS IN MIND THROUGHOUT THE OPENING.

08:43AM 20 THE COURT: MR. FERRALL, AS WE GO THROUGH THIS BLOG  
08:43AM 21 THOUGH THAT YOU ARE OBJECTING TO, AND SO --

08:43AM 22 MR. FERRALL: THE BLOG, YOUR HONOR, IS -- THIS IS ALL  
08:43AM 23 CIRCULAR TO THE DECLARATION. THE ISSUE STARTS WITH THE  
08:43AM 24 DECLARATION, AND I THINK THERE'S A BIT OF BOOT STRAPPING HERE  
08:43AM 25 ABOUT THE BLOG AND TRYING TO CONTRADICT THE BLOG. THE ONLY

08:43AM 1 QUESTION, REALLY, IS FIRST, YOU GOT TO START WITH, IS THE  
08:43AM 2 DECLARATION ADMISSIBLE IN LIGHT OF THE FACT -- LOOK, THE  
08:43AM 3 COMPLAINT -- THE HUAWEI COMPLAINT CAN COME IN --

08:43AM 4 THE COURT: YOU KNOW, I ACTUALLY THINK THAT THE  
08:43AM 5 DECLARATION IS ADMISSIBLE FOR A VERY LIMITED PURPOSE AND I  
08:43AM 6 THINK THAT'S WHAT I'VE BEEN SAYING ALL ALONG. SO YOUR LIMITING  
08:43AM 7 INSTRUCTION IS IMPORTANT.

08:43AM 8 IT IS ADMISSIBLE TO THE ESTABLISH THE POSITION OF CISCO AT  
08:44AM 9 THE TIME THE DECLARATION WAS MADE IN ORDER TO REFUTE THE IDEA  
08:44AM 10 THAT THIS COPYING THING HAS ONLY COME UP NOW IN 2014 WHEN THE  
08:44AM 11 COMPLAINT WAS FILED AND NEVER BEEN WAS CISCO CONCERNED ABOUT  
08:44AM 12 THE COPYRIGHTABILITY AND PROTECTABILITY OF ITS CLI.

08:44AM 13 SO IT JUST SHOWS A PRIOR STATEMENT MADE IN A TIMEFRAME THAT  
08:44AM 14 WOULD REFUTE YOUR ARGUMENT. I THINK IT'S COMPLETELY  
08:44AM 15 ADMISSIBLE.

08:44AM 16 IT'S NOT ADMISSIBLE IN ORDER TO SHOW THE -- SOME OF THESE  
08:44AM 17 OTHER ASPECTS THAT YOU HAVE INDICATED, AND IT'S CERTAINLY IS  
08:44AM 18 NOT ADMISSIBLE TO SHOW A PUBLIC CAMPAIGN TO SCARE OFF AND WARN  
08:44AM 19 THE INDUSTRY THAT CISCO WAS ON A TIRADE TO PROTECT THIS  
08:44AM 20 COPYRIGHT THROUGHOUT THE PERIOD. IT HASN'T BEEN USED AS AN  
08:44AM 21 AFFIRMATIVE WEAPON. AND THE MERE FACT OF ITS SEALING TELLS US  
08:44AM 22 THAT.

08:45AM 23 SO THAT'S VERY LIMITED AND I THINK THAT DOES ADDRESS ONE OF  
08:45AM 24 YOUR CONCERNS BUT MR. NELSON IS NOT OFFERING IT AS THAT  
08:45AM 25 AFFIRMATIVE SWORD

08:45AM 1 MR. NELSON: CORRECT. AND I AGREE WITH EVERYTHING  
08:45AM 2 YOUR HONOR JUST SAID AND THAT IS 100 PERCENT CORRECT WHAT I'M  
08:45AM 3 DOING.

08:45AM 4 AND IN TERMS OF BLOG, MAYBE I HAVE A SOLUTION BECAUSE I  
08:45AM 5 LIKE TO PROPOSE SOLUTIONS.

08:45AM 6 THE COURT: OKAY. I APPRECIATE THAT.

08:45AM 7 MR. NELSON: THE COMPLAINT IS AN IMPORTANT PART TO  
08:45AM 8 THE PUBLIC ASPECT AND THE COMPLAINT TIES VERY MUCH BACK TO THE  
08:45AM 9 DECLARATION.

08:45AM 10 AS LONG AS MR. GIANCARLO DOESN'T RUN AWAY FROM THE  
08:45AM 11 COMPLAINT.

08:45AM 12 THE COURT: HE DIDN'T FILE THE COMPLAINT.

08:45AM 13 MR. NELSON: UNDERSTOOD.

08:45AM 14 BUT OF COURSE HE DIDN'T REVIEW THE COMPLAINT HIS  
08:45AM 15 DECLARATION REFERS BACK TO THE COMPLAINT. HE REPRESENTED  
08:45AM 16 PUBLICLY EVEN AFTER THIS LAWSUIT WAS FILED THAT HE WAS THE  
08:45AM 17 EXECUTIVE IN CHARGE OF INITIATING AND PURSUING THAT.

08:45AM 18 SO THAT WOULD BE THE PURPOSE FOR THE BLOG BECAUSE I THINK  
08:45AM 19 IT'S A LITTLE BIT DISINGENUOUS TO RUN AWAY AND SAY, WELL I  
08:45AM 20 DON'T KNOW ANYTHING ABOUT THAT OR, YOU KNOW, THAT WAS JUST A  
08:45AM 21 LAWYER COMING UP WITH THAT.

08:46AM 22 SO AS LONG AS THAT'S NOT THE CASE, I DON'T REALLY NEED THE  
08:46AM 23 BLOG AT THIS STAGE OF THE GAME AND MAYBE THAT RESOLVES IT. BUT  
08:46AM 24 I DO THINK IT'S UNFAIR -- HE CAN EXPLAIN WHATEVER HE WANTS AND  
08:46AM 25 WHAT HE UNDERSTOOD AND YOU KNOW, THAT'S A CREDIBILITY

08:46AM 1 DETERMINATION, BUT TO SUGGEST THAT I HAVE NO IDEA ABOUT THE  
08:46AM 2 COMPLAINT WHEN HIS DECLARATION REFERS SPECIFICALLY BACK TO IT,  
08:46AM 3 AND HE'S REPRESENTED TO THE WORLD AS OF 2014 THAT HE WAS THE  
08:46AM 4 EXECUTIVE IN CHARGE OF INITIATING AND PURSUING THAT LAWSUIT --

08:46AM 5 THE COURT: WELL, I DON'T HAVE A -- YOU ARE RIGHT.  
08:46AM 6 MAYBE YOU DON'T NEED TO ADMIT IT, BUT CERTAINLY YOU CAN  
08:46AM 7 CROSS-EXAMINE HIM BY ASKING HIM IF HE POSTED A BLOG ON  
08:46AM 8 DECEMBER 19, 2014, IN WHICH HE STATED, THEN YOU CAN SHOW IT TO  
08:46AM 9 HIM, YOU CAN READ IT TO HIM. THESE EXTRACTED PORTIONS I THINK  
08:46AM 10 WOULD BE, MR. FERRALL, YOU ARE NOT OBJECTING TO THAT.

08:46AM 11 MR. FERRALL: I'M NOT OBJECTING TO THAT, NO.

08:46AM 12 THE COURT: AND I THINK MAYBE THAT'S THE BEST  
08:46AM 13 APPROACH.

08:46AM 14 MR. NELSON: OKAY.

08:46AM 15 THE COURT: OKAY. GOOD.

08:46AM 16 MR. FERRALL: SO YOUR HONOR, ON THE LIMITING  
08:46AM 17 INSTRUCTION, I HAVE A HAND OUT -- MR. NELSON AND I CONFERRED,  
08:47AM 18 WE HAVE AN EDIT THAT NEEDS TO BE INCORPORATED. SHOULD I MAKE  
08:47AM 19 THAT EDIT AND THEN FILE IT?

08:47AM 20 THE COURT: AND THEN IT'S STIPULATED?

08:47AM 21 MR. NELSON: YEAH. I CAN READ IT AGAIN, BUT IT  
08:47AM 22 SEEMED FINE TO ME.

08:47AM 23 THE COURT: AND YOU WILL JUST LET ME KNOW WHEN YOU  
08:47AM 24 WOULD LIKE ME TO READ IT.

08:47AM 25 MR. FERRALL: OKAY. I THINK WHAT WE ARE PROPOSING IS



08:47AM 1 THAT IT BE READ BEFORE MR. GIANCARLO'S TESTIMONY.

08:47AM 2 THE COURT: OKAY.

08:47AM 3 MR. FERRALL: RIGHT BEFORE.

08:47AM 4 THE COURT: OKAY. THEN YOU WILL JUST REMIND ME. IF  
08:47AM 5 I FORGET. I GENERALLY KEEP THEM RIGHT UP HERE. SO OKAY.

08:47AM 6 MR. FERRALL: AND WE WILL HAVE A PAPER COPY HANDY IN  
08:47AM 7 CASE THAT'S EASIER FOR YOU. THANK YOU.

08:47AM 8 THE COURT: OKAY. THAT TAKES CARE OF --

08:47AM 9 MR. NELSON: THANK YOU, YOUR HONOR.

08:47AM 10 THE COURT: YES. OKAY. SO WE HAVE DEALT WITH.

08:47AM 11 THE FIFTH ISSUE WAS EXHIBIT 184 THAT HAS BEEN WITHDRAWN FOR  
08:47AM 12 THE TIME BEING.

08:47AM 13 THE SIXTH ISSUE IS A SERIES OF EXHIBITS AND I'M NOT REALLY  
08:48AM 14 SURE WHAT I CAN DO WITH THIS NOW, BECAUSE APPARENTLY AT THE  
08:48AM 15 TIME THIS THAT THIS MOTION WAS FILED, ARISTA WAS UNAWARE OF THE  
08:48AM 16 PURPOSE FOR WHICH THIS SERIES OF DOCUMENTS WOULD BE OFFERED.

08:48AM 17 A NUMBER OF THEM HAVE BEEN WITHDRAWN FOR THE TIME BEING AS  
08:48AM 18 WELL. AND SO I AM LEFT TO BE CONCERNED ABOUT EXHIBIT 180, 203,  
08:48AM 19 204, 381, 382 AND 383.

08:48AM 20 SO MR. NELSON, HOW -- DO WE KNOW, HAVE YOU -- MR. PAK, DO  
08:48AM 21 WE KNOW WHY YOU ARE OFFERING THESE? NOT WE, DOES ARISTA KNOW  
08:48AM 22 SO THAT I CAN --

08:48AM 23 MR. PAK: SURE, YOUR HONOR.

08:48AM 24 SO THESE ARE SOME OF THE CISCO DOCUMENTS I HAVE, THE CISCO  
08:48AM 25 DESIGNATED CONFIDENTIAL. RIGHT.

08:48AM 1 WE WENT THROUGH THOSE. THERE ARE A FEW THAT CLEARLY WE  
08:49AM 2 BELIEVE ARE NOT THE TYPE OF DOCUMENTS THAT SHOULD HAVE BEEN  
08:49AM 3 RELEASED TO ANYONE, AND WE INTEND TO COVER THEM WITH MR.  
08:49AM 4 SEDANA, AND THAT WAS THE SUBJECT OF EARLIER ARGUMENT ON THAT  
08:49AM 5 ISSUE.

08:49AM 6 AS YOUR HONOR DETERMINED OVER THE WEEKEND, WILFULNESS OF  
08:49AM 7 COPYRIGHT INFRINGEMENT IS STILL IN PLAY IN THIS CASE, AND WE  
08:49AM 8 BELIEVE THESE DOCUMENTS SHOWING ACCESS TO VARIOUS CONFIDENTIAL  
08:49AM 9 DOCUMENTS, ALTHOUGH WE ARE NOT BRINGING IN THE ITC  
08:49AM 10 DETERMINATION, THESE WERE SOME OF THE UNDERLYING EVIDENCE THAT  
08:49AM 11 WAS CONSIDERED BY THE ITC IN TERMS OF ESTABLISHING A PATTERN OF  
08:49AM 12 CONDUCT, NOT CARING ABOUT OTHER PEOPLE'S INTELLECTUAL PROPERTY.

08:49AM 13 THE COURT: SO I DON'T KNOW WHETHER THE ISSUE HERE IS  
08:49AM 14 THE CISCO CONFIDENTIAL STAMP ON THE DOCUMENT OR THE UNDERLYING  
08:49AM 15 DOCUMENT ITSELF. YOU WANT TO ADMIT THESE DOCUMENTS INTO  
08:49AM 16 EVIDENCE?

08:49AM 17 MR. PAK: YES, YOUR HONOR, THAT'S CORRECT.

08:49AM 18 THE COURT: THEN TO SHOW THE JURY THE SENSITIVE  
08:49AM 19 NATURE OF THE DOCUMENT.

08:49AM 20 MR. PAK: ABSOLUTELY.

08:49AM 21 THE COURT: AND I ASSUME YOU WILL BE ATTEMPTING TO  
08:49AM 22 ESTABLISH HOW ARISTA CAME TO HAVE POSSESSION.

08:49AM 23 MR. PAK: OR LACK OF EXPLANATION FOR THAT, YES,  
08:50AM 24 ABSOLUTELY.

08:50AM 25 THE COURT: OKAY. THEY PROBABLY WEREN'T FOUND ON THE

08:50AM 1 SIDEWALK SOMEWHERE.

08:50AM 2 MR. PAK: NO.

08:50AM 3 THE COURT: OKAY, WELL --

08:50AM 4 MR. PAK: NOW TO THE EXTENT, AND THERE ARE A FEW AND  
08:50AM 5 SOME OF THE ONES WE DROPPED YOUR HONOR, AS I EXPLAINED, SOME OF  
08:50AM 6 THE DOCUMENTS MAY BE THINGS THAT WERE ON THE WEBSITE SOMEWHERE  
08:50AM 7 AND THEY HAVE AN EXPLANATION THAT SAYS, LOOK, WE DOWNLOADED  
08:50AM 8 THESE PUBLICLY, OR THEY WERE DISTRIBUTED PUBLICLY.

08:50AM 9 IF THEY WANT TO GET INTO THOSE FACTS, WITH RESPECT TO SOME  
08:50AM 10 OF THE DOCUMENTS THAT WE USED, I THINK THAT'S FAIR FOR THEM TO  
08:50AM 11 DO THAT TO RESPOND TO OUR ALLEGATIONS.

08:50AM 12 BUT AT THIS POINT WE HAVE OUR CISCO CONFIDENTIAL DOCUMENTS  
08:50AM 13 WE DOWN SELECTED TO A SUBSET, AND I COVERED MANY OF THESE WITH  
08:50AM 14 MR. SEDANA, WE INTEND TO COVER THEM TODAY WITH MR. SEDANA ON  
08:50AM 15 THE STAND

08:50AM 16 THE COURT: OKAY. AND WHO FOR ARISTA IS ARGUING  
08:50AM 17 THIS?

08:50AM 18 MR. ROSEN: DAVID ROSEN FOR ARISTA.

08:51AM 19 THE COURT: GOOD MORNING, MR. ROSE.

08:51AM 20 MR. ROSEN: GOOD MORNING.

08:51AM 21 THE COURT: SO NOW WE'VE GOT THE DISCLOSURE OF THE  
08:51AM 22 USE OF THEM. IT'S ALWAYS HELPFUL TO KNOW EXACTLY WHAT THEY ARE  
08:51AM 23 BEING OFFERED FOR AND THIS IS CERTAINLY A THEME THAT HAS BEEN  
08:51AM 24 ADDRESSED BEFORE THE COURT IN THE PAST.

08:51AM 25 SO WHAT IS YOUR POSITION AT THIS POINT?

08:51AM 1 MR. ROSEN: SO OUR POSITION IS WE DON'T WANT TO  
08:51AM 2 RELITIGATE OUR MOTION IN LIMINE ON THIS ISSUE. BUT WHAT WE DO  
08:51AM 3 WANT IS TO MAKE SURE THAT THESE DOCUMENTS ARE BEING OFFERED  
08:51AM 4 ONLY FOR THE PURPOSE OF PATENT WILLFUL INFRINGEMENT AND NO  
08:51AM 5 OTHER PURPOSE. BECAUSE OTHERWISE WE HAVE CONCERNS THAT THEY  
08:51AM 6 ARE GOING TO CONFUSE THE JURY.

08:51AM 7 THE DOCUMENTS DON'T -- THEY CONCERN TECHNOLOGY BUT THEY  
08:51AM 8 DON'T ALLEGE THE COPYRIGHTED INFRINGEMENT. THEY DON'T CONCERN  
08:51AM 9 THE PATENT INFRINGEMENT EXCEPT TO THE EXTENT THEY COULD  
08:51AM 10 POSSIBLY BE RELEVANT TO PATENT WILFULNESS.

08:52AM 11 THE COURT: MR. PAK, IS THIS BEING OFFERED ONLY FOR  
08:52AM 12 PATENT WILFULNESS INFRINGEMENT.

08:52AM 13 MR. PAK: NO, YOUR HONOR. I THINK IT'S CERTAINLY  
08:52AM 14 RELEVANT TO PATENT WILFULNESS UNDER HALO, BUT WE HAVE THE  
08:52AM 15 WILFULNESS WITH RESPECT TO THE COPYRIGHT INFRINGEMENT CASE.  
08:52AM 16 AND WE THINK THAT HAVING ACCESS TO CONFIDENTIAL DOCUMENTS OF  
08:52AM 17 EMPLOYEES WHO JOINED FROM CISCO TO ARISTA, WE CAN ESTABLISH  
08:52AM 18 VERY CLEAR TODAY THEY HAD NO INTELLECTUAL PROPERTY TRAINING  
08:52AM 19 WHATSOEVER WHEN THOSE EMPLOYEES CAME IN. THIS CULTURE OF  
08:52AM 20 COPYING IS HIGHLY RELEVANT TO THE COPYING ALLEGATION.

08:52AM 21 SO I THINK THIS IS THE UNDERLYING EVIDENCE WE WANT TO  
08:52AM 22 PRESENT AND WE CAN LET THE JURY MAKE THAT DETERMINATION. BUT  
08:52AM 23 WILFULNESS OF BOTH COPYRIGHT AND THE PATENT INFRINGEMENT CLAIMS  
08:52AM 24 ARE AT ISSUE IN THIS CASE, YOUR HONOR.

08:52AM 25 THE COURT: MR. VAN NEST.

08:52AM 1 MR. VAN NEST: YOU REFERENCED, I'M A LITTLE BIT  
08:52AM 2 CONFUSED, BECAUSE WHEN I LEFT LAST WEEK I UNDERSTOOD THAT  
08:52AM 3 COPYRIGHT WILFULNESS WAS NOT GOING TO BE INSTRUCTED ON. AND  
08:52AM 4 YOU SENT AN E-MAIL OVER THE WEEKEND, AND I ASSUME WHAT WE GET  
08:52AM 5 TO JURY INSTRUCTIONS WE WILL WORK OUT THE FINAL INSTRUCTIONS.

08:52AM 6 BUT OUR POSITION ON COPYRIGHT WILFULNESS IS WE OFFERED TO  
08:53AM 7 STIPULATE. THE ONLY CIRCUMSTANCE IN WHICH COPYRIGHT WILFULNESS  
08:53AM 8 COULD EVER COME UP NOW, NOW THAT YOUR HONOR HAS FOUND THAT  
08:53AM 9 COPYRIGHT WILFULNESS IS ONLY RELEVANT IF YOU ARE DEDUCTING  
08:53AM 10 TAXES, WHICH WE ARE NOT, AND POSSIBLY FOR STATUTORY DAMAGES,  
08:53AM 11 THE ONLY POSSIBLE TIME THIS COULD WHICH UP IS IF THEY ELECT  
08:53AM 12 STATUTORY DAMAGES

08:53AM 13 THE COURT: SO, MR. VAN NEST, I READ JUDGE ALSUP'S  
08:53AM 14 ORDER ON THIS ISSUE FROM ORACLE VERSUS GOOGLE AND HE DID, AND  
08:53AM 15 YOU KNOW IT BETTER THAN I DO BECAUSE YOU LIVED IT, BUT JUDGE  
08:53AM 16 ALSUP COVERED THE WATERFRONT ON THE ISSUE OF WHERE THE  
08:53AM 17 NINTH CIRCUIT STANDS OR WOULD STAND ON THIS ISSUE OF IN ACTUAL  
08:53AM 18 DAMAGES CASES, WHAT DEDUCTIONS ARE ALLOWED.

08:53AM 19 BUT THEN HE WENT ON TO SAY VERY DIRECTLY THAT BECAUSE THE  
08:53AM 20 PLAINTIFF NEED NOT ELECT ITS DAMAGES, STATUTORY OR ACTUAL, THAT  
08:53AM 21 THE ISSUE OF WILFULNESS WOULD GO TO THE JURY.

08:53AM 22 I THINK IT IS FANCIFUL TO THINK THAT ARISTA WOULD ELECT  
08:54AM 23 STATUTORY DAMAGES. BUT WHAT I THINK REALLY DOESN'T MATTER.  
08:54AM 24 AND THE PLAINTIFF IS ENTITLED UNDER THE LAW TO WAIT AND MAKE  
08:54AM 25 THE ELECTION. MAYBE THIS JURY WILL AWARD \$1 AND STATUTORY

08:54AM 1 DAMAGES ARE GOING TO LOOK PRETTY GOOD. NO ONE KNOWS.

08:54AM 2 YOU KNOW, WE ARE ONE MINUTE INTO TRIAL. IT IS SIMPLY NOT  
08:54AM 3 PROPER FOR THE COURT TO ASSUME THAT THERE IS ONLY ONE DIRECTION  
08:54AM 4 A PLAINTIFF CAN GO.

08:54AM 5 AND YOU KNOW, IF -- AND SINCE THE LAW CLEARLY ALLOWS THEM  
08:54AM 6 TO ELECT UP UNTIL THE TIME I ENTER JUDGMENT, THERE'S NOTHING I  
08:54AM 7 CAN DO. I THINK JUDGE ALSUP STRUGGLED WITH THIS. HE  
08:54AM 8 BIFURCATED. SO HE AVOIDED THIS PROBLEM. I DON'T THINK THAT  
08:54AM 9 THE LAW REQUIRES IT NOR DO I THINK UNDER OUR SCHEDULE HERE,  
08:54AM 10 IT'S SIMPLY NOT FEASIBLE BRING A JURY BACK NEXT YEAR AND FINISH  
08:54AM 11 THIS. I NEVER ENTERTAINED THAT.

08:54AM 12 SO THAT'S WHY I LET YOU KNOW ON FRIDAY SO THAT YOU COULD  
08:55AM 13 PREPARE YOUR OPENING. AND I'M SORRY THAT I HAD A CHANGE OF  
08:55AM 14 HEART, I JUST DID FURTHER RESEARCH ON IT AND I WOULD RATHER  
08:55AM 15 THAT THEN AND THERE A JMOL.

08:55AM 16 MR. VAN NEST: I GUESS YOUR HONOR THE ONE THING I'M  
08:55AM 17 NOT SURE THE COURT WAS AWARE OF, BUT PERHAPS YOU ARE, AND THAT  
08:55AM 18 IS WE TRIED TO SOLVE THIS ISSUE, WHICH IS AS YOU NOTICED,  
08:55AM 19 FANCIFUL, BUT SAYING WE WILL STIPULATE TO WILFULNESS COPYRIGHT  
08:55AM 20 INFRINGEMENT IF AND WHEN, AND FOR THE PURPOSE OF STATUTORY  
08:55AM 21 DAMAGES.

08:55AM 22 IN OTHER WORDS, WE ARE NOT FIGHTING IT. WE ARE SAYING --  
08:55AM 23 BECAUSE THE STATUTE IS CLEAR ON WHAT YOU GET IF IT'S WILLFUL,  
08:55AM 24 IT GOES FROM 50 GRAND I THINK TO \$150,000 PER COPYRIGHTED WORK.

08:55AM 25 THE COURT: THIS ARGUMENT WILL COST MORE THAN THE --

08:55AM 1 MR. VAN NEST: I HOPE NOT. BUT EXCUSE ME MR. PAK.  
08:55AM 2 SO WHAT WE SAID IN THE PLEADING, AND I APOLOGIZE BECAUSE I  
08:56AM 3 THOUGHT THIS WOULD GET RESOLVED LATER AT THE JURY INSTRUCTION  
08:56AM 4 STAGE.

08:56AM 5 THE COURT: I UNDERSTAND, YEAH.

08:56AM 6 MR. VAN NEST: AND TOLD THE TEAM, LET'S NOT BOTHER  
08:56AM 7 JUDGE FREEMAN OVER THE WEEKEND ANY FURTHER, IT'S -- WE OFFERED  
08:56AM 8 TO STIPULATE, AND WE ARE STILL, WE WILL MAKE AN ADMISSION FOR  
08:56AM 9 THE PURPOSE EVER STATUTORY DAMAGES IF THEY EVER ELECT THAT.  
08:56AM 10 AND THAT IS SOMETHING THE COURT CAN TAKE INTO ACCOUNT IN  
08:56AM 11 MANAGING THE TRIAL. THE JURY HAS SO MANY ISSUES TO DEAL WITH.

08:56AM 12 WE ARE WILLING TO TAKE AND I WILL TURN IT BACK OVER TO  
08:56AM 13 MR. ROSE, HAVE NOTHING TO DO WITH C COPYRIGHT CLAIMS. BUT ANY  
08:56AM 14 WAY, OUR OFFER STANDS AND I THINK IT'S UP TO YOUR HONOR AS A  
08:56AM 15 MATTER OF TRIAL MANAGEMENT WHAT TO DO. AND I THINK THAT'S  
08:56AM 16 SOMETHING MAYBE WITH ALL THE PLEADINGS WE DIDN'T MAKE CLEAR  
08:56AM 17 ENOUGH AND I APOLOGIZE.

08:56AM 18 THE COURT: YOU KNOW, I WAS CERTAINLY AWARE OF THE  
08:56AM 19 POSITION THAT YOU WERE TAKING BY NOT EVEN SEEKING THE  
08:57AM 20 DEDUCTIONS THAT WOULD FOLLOW FROM WILFULNESS AND ACTUAL  
08:57AM 21 DAMAGES, AND I'M SORRY TO SAY I WAS -- HAD FORGOTTEN OR WAS  
08:57AM 22 UNAWARE OF THE AGREEMENT TO STIPULATE TO WILFULNESS IF THERE'S  
08:57AM 23 A FINDING OF COPYRIGHT INFRINGEMENT AND AN ELECTION OF  
08:57AM 24 STATUTORY DAMAGES.

08:57AM 25 MR. PAK, I HAVE NO REASON TO ALLOW THE TRIAL TO TAKE TIME

08:57AM 1 OF THIS JURY TO DECIDE SOMETHING THAT HAS BEEN, CAN BE  
08:57AM 2 CONCLUSIVELY DECIDED IN THE EVENT THAT THERE'S A VERDICT OF  
08:57AM 3 COPYRIGHT INFRINGEMENT.

08:57AM 4 MR. PAK: TWO POINTS, YOUR HONOR.

08:57AM 5 FIRST OF ALL LET'S GO BACK TO THESE PARTICULAR DOCUMENTS.  
08:57AM 6 WE'VE HEARD, WE TALKED ABOUT WILFULNESS, YOUR HONOR, BUT ALSO  
08:57AM 7 THESE DOCUMENTS SHOW THAT THEY HAD ACCESS TO INFORMATION THAT  
08:57AM 8 RELATE TO THE OTHER ASPECTS OF THE SOURCE CODE, OTHER ASPECTS  
08:57AM 9 OF THE PRODUCT DESIGN.

08:57AM 10 YOUR HONOR JUST TALKED ABOUT WITH MR. NELSON THAT ALTHOUGH  
08:57AM 11 WE CAN'T BRING IN ALLEGATIONS OF LAWSUITS, WE CAN CERTAINLY  
08:57AM 12 BRING IN EVIDENCE TO SHOW THAT THERE WAS COPYING, THAT THERE  
08:58AM 13 WAS SUGGESTIONS OF COPYING, CIRCUMSTANTIAL EVIDENCE OF COPYING.

08:58AM 14 SO WE CAN DEAL WITH THE WILFULNESS INSTRUCTION AT THE END,  
08:58AM 15 WHETHER WE TAKE --

08:58AM 16 THE COURT: WELL I DON'T THINK YOU ARE IN A POSITION  
08:58AM 17 TO REFUSE TO WIN ON AN ASPECT OF THE CASE.

08:58AM 18 MR. PAK: SURE, YOUR HONOR. THAT I AGREE WITH.

08:58AM 19 BUT YOUR HONOR, WHAT WE CARE THE MOST ABOUT IS HAVING A  
08:58AM 20 FAIR OPPORTUNITY TO REBUT SOME OF THE THESE ALLEGATIONS THAT WE  
08:58AM 21 HEARD. AND I THINK THE DOCUMENTS --

08:58AM 22 THE COURT: MR. ROSEN, I ACTUALLY THINK THAT IT IS --  
08:58AM 23 THAT THESE DOCUMENTS AND THE SENSITIVE NATURE OF THESE  
08:58AM 24 DOCUMENTS AND THE INFERENCE THAT IT WAS INAPPROPRIATE FOR  
08:58AM 25 ARISTA TO HAVE THESE DOCUMENTS IS IMPORTANT. IT MAY BE



08:58AM 1 RELEVANT TO THE BAD FAITH ASPECT OF FAIR USE AND IT MAY BE  
08:58AM 2 RELEVANT TO AN INFERENCE OF COPYING IN THE INDIRECT CASE,  
08:58AM 3 ALTHOUGH I MEAN, I KNOW THERE'S EVIDENCE SUGGESTED BY PLAINTIFF  
08:58AM 4 THAT THERE IS DIRECT EVIDENCE OF COPYING, BUT WE DON'T KNOW  
08:59AM 5 WHAT THE JURY WILL CREDIT.

08:59AM 6 AND CISCO HAS MADE CLEAR THAT THEY WILL PUT ON AN INDIRECT  
08:59AM 7 CASE OF COPYING AS WELL. SO THIS INFERENCE THAT THEY WILL SEEK  
08:59AM 8 TO DRAW FROM ARISTA HAVING POSSESSION OF THESE CONFIDENTIAL  
08:59AM 9 DOCUMENTS, I THINK IS REASONABLE AND I THINK THAT IT IS  
08:59AM 10 PROBATIVE OF ISSUES THAT REMAIN IN THE CASE.

08:59AM 11 AND OF COURSE, THERE'S NO OBJECTION TO, THAT YOU'VE  
08:59AM 12 INDICATED THAT THESE DOCUMENTS CAN BE RELEVANT AND ARE RELEVANT  
08:59AM 13 TO THE ISSUE OF WILLFUL PATENT INFRINGEMENT.

08:59AM 14 SO I'M GOING TO ALLOW THE DOCUMENTS. I DON'T KNOW THAT YOU  
08:59AM 15 ACTUALLY NEED A LIMITING INSTRUCTION AT THIS POINT. THE JURY  
08:59AM 16 WILL HEAR NOTHING ABOUT WILLFUL COPYRIGHT INFRINGEMENT. THEY  
08:59AM 17 WILL JUST BE UNAWARE OF THAT.

08:59AM 18 AND I WILL NEED A WRITTEN STIPULATION, OF COURSE, ON THE  
08:59AM 19 WILLFUL INFRINGEMENT COPYRIGHT INFRINGEMENT UPON A JURY VERDICT  
08:59AM 20 OF, OBVIOUSLY OF INFRINGEMENT, AND AN ELECTION OF STATUTORY  
09:00AM 21 DAMAGES, THEN THERE WOULD BE -- THAT WOULD COME INTO PLAY. AND  
09:00AM 22 I NEED THAT CLEARLY BEFORE I INSTRUCT THE JURY. I'M SURE THAT  
09:00AM 23 WON'T BE A PROBLEM.

09:00AM 24 MR. VAN NEST: WE WILL GET THAT DONE ASAP,  
09:00AM 25 YOUR HONOR.

09:00AM 1 MR. PAK: THANK YOU, YOUR HONOR.

09:00AM 2 THE COURT: OKAY. DOES THAT TAKE CARE -- THEN THERE  
09:00AM 3 WAS ONE LAST THING, SORRY. IT SEEMS MINOR AT THIS POINT, THE  
09:00AM 4 SEVENTH ITEM WAS --

09:00AM 5 MR. PAK: JUST THE RESUME, YOUR HONOR.

09:00AM 6 THE COURT: 4256. YOU ARE NOT OFFERING THE RESUME  
09:00AM 7 INTO EVIDENCE ARE YOU?

09:00AM 8 MR. PAK: NO YOUR HONOR. ALL WANTED TO DO WAS WE  
09:00AM 9 HAVE MR. WHEELER WHO IS NOT A LIVE WITNESS YOUR HONOR AND HE'S  
09:00AM 10 GOING TO WALK THROUGH THE BACKGROUND. WE THOUGHT IT WOULD BE  
09:00AM 11 HELP TO FEEL SHOW IT AS A DEMONSTRATIVE, BUT WE ARE NOT  
09:00AM 12 ADMITTING THAT INTO EVIDENCE YOUR HONOR.

09:00AM 13 THE COURT: OKAY. THEN I THINK THAT'S RESOLVED AS  
09:00AM 14 WELL.

09:00AM 15 OKAY. THAT WAS VERY EFFICIENT. I REALLY APPRECIATE THAT.  
09:00AM 16 ANY -- AND IT'S EXACTLY 9:00. SO ARE THERE ANY OTHER MATTERS  
09:00AM 17 THAT WE NEED TO TAKE UP THIS MORNING?

09:00AM 18 MR. VAN NEST: I HAVE JUST ONE, YOUR HONOR.

09:00AM 19 THE COURT: YES.

09:01AM 20 MR. VAN NEST: IT'S MORE IN THE NATURE OF A CONCERN  
09:01AM 21 THAT I HAVE LAST WEEK AT THE DISSECTION HEARING THEY CLEARLY  
09:01AM 22 WITH DREW THEIR CLAIM ON THE HIERARCHIES, AND ALTHOUGH I DIDN'T  
09:01AM 23 HEAR MR. NELSON IN OPENING MAKE A CLAIM FOR HIERARCHY, SO I  
09:01AM 24 APPRECIATE THAT.

09:01AM 25 NOW THAT WE HAVE THE WITNESSES, WE ARE HEARING A LOT OF

09:01AM 1 HIERARCHIES, AND I SEE COMING UP WITH MR. REMAKER AND OTHERS, A  
09:01AM 2 LOT OF DISCUSSIONS ABOUT HIERARCHIES. AND AT SOME POINT, I  
09:01AM 3 WOULD ASK YOUR HONOR BECAUSE I THINK IT'S ABSOLUTELY  
09:01AM 4 APPROPRIATE, TO TELL THE JURY SO THEY DON'T SPEND TIME ON IT,  
09:01AM 5 THAT HIERARCHIES ARE NOT ONE OF THE THINGS ASSERTED IN THE CASE  
09:01AM 6 AS COPIED BY ARISTA.

09:01AM 7 SO THAT'S NOW THE STATE OF EVIDENCE. AND WITH ALL THIS  
09:01AM 8 DISCUSSION FROM, YOU KNOW, WE DIDN'T OBJECT YESTERDAY BECAUSE  
09:01AM 9 YOU SAID THEY COULD TALK ABOUT CREATIVITY THAT WAY, OKAY, FINE,  
09:01AM 10 BUT I HAVE A FEELING, GIVEN WHAT I HEARD FROM MR. LOUGHEED THAT  
09:01AM 11 THE MAJOR PORTION OF A LOT OF THIS TESTIMONY FROM HIM AND  
09:02AM 12 REMAKER AND SLATTERY, AND THE GUYS COMING UP, IS GOING TO BE ON  
09:02AM 13 HOW CREATIVE THESE HIERARCHIES ARE.

09:02AM 14 AND I THINK THE JURY NEEDS TO BE TOLD SOONER RATHER THAN  
09:02AM 15 LATER THAT THERE'S NO CLAIM OF COPYING IN THIS CASE AS TO THOSE  
09:02AM 16 SO THAT THEY DON'T SPEND TIME, YOU KNOW, IT'S HARD TO UN RING  
09:02AM 17 THE BELL, IN OTHER WORDS.

09:02AM 18 THE COURT: SURE. I HAD UNDERSTOOD THE BEGINNING OF  
09:02AM 19 MR. LOUGHEED'S TESTIMONY TO REALLY USE THE HIERARCHIES AS PART  
09:02AM 20 OF THE CREATIVE PROCESS THAT HE WAS DESCRIBING IN ORDER TO  
09:02AM 21 CREATE THE COMMAND, MULTIWORD COMMAND LINES. OF COURSE I'VE  
09:02AM 22 ONLY HEARD A LITTLE BIT OF HIS TESTIMONY SO MAYBE I'M MISLEAD  
09:02AM 23 ON THAT.

09:02AM 24 MR. NELSON: NO, THAT'S EXACTLY RIGHT, AND THAT'S  
09:02AM 25 WHAT MR. REMAKER WILL DO AS WELL WHEN HE TALKS ABOUT THE

09:02AM 1 PROCESS WHICH IS EXACTLY THE DISCUSSION YOUR HONOR AND I HAD AT  
09:02AM 2 THE FILTRATION OR DISSECTION OR WHATEVER, THAT HEARING THAT ONE  
09:02AM 3 DAY A WEEK AGO MONDAY THAT WE HAD.

09:02AM 4 SO IT IS, AND I THINK THE WITNESS HAS BEEN VERY CLEAR AND I  
09:02AM 5 WENT OUT OF MY WAY IN OPENING TO EXPLAIN EXACTLY THAT, THAT  
09:03AM 6 THIS IS ABOUT THE SEQUENCING OF THE WORDS AND PART OF THE  
09:03AM 7 CREATIVE PROCESS IN DETERMINING WHAT THAT IS.

09:03AM 8 SO, AND THAT'S WHAT WE TALKED ABOUT. WE CAN USE IT FOR  
09:03AM 9 THAT PURPOSE. IN TERMS OF INSTRUCTING THE JURY, THEY DON'T  
09:03AM 10 EVEN KNOW, IT WASN'T PRESENTED TO THEM AS ONE OF THE CLAIMED  
09:03AM 11 ELEMENTS. IN THE OPENING I WENT OUT OF MY WAY, I THINK IT'S  
09:03AM 12 TOTALLY CONFUSING TO SAY --

09:03AM 13 THE COURT: SO I ACTUALLY THINK, AND THIS IS THE  
09:03AM 14 INSTRUCTION WE HAVEN'T REALLY DEVELOPED YET THAT WE HAVE TO  
09:03AM 15 COME BACK TO. MR. VAN NEST, I THINK YOUR POINT IS A GOOD ONE  
09:03AM 16 AND THEY SHOULDN'T BE CONFUSED. BUT I THINK IN THE CLOSING  
09:03AM 17 INSTRUCTION ON ANALYTIC DISSECTION I THINK WE CAN MAKE IT CLEAR  
09:03AM 18 TO THE JURY THAT THE FOLLOWING ELEMENTS ASSERTED BY CISCO, LIST  
09:03AM 19 FOUR OF THEM.

09:03AM 20 THEN IT WILL BE CLEAR YOU CAN ARGUE FROM THAT YOU HEARD A  
09:03AM 21 LOT ABOUT HIERARCHIES, LOOK THEY'RE NOT HERE IN THE  
09:03AM 22 INSTRUCTION, AND I THINK THAT'S THE BEST WAY TO DEAL WITH IT.  
09:03AM 23 AS OPPOSED TO NOW, THEY DON'T EVEN UNDERSTAND WHAT AN ASSERTED  
09:03AM 24 ELEMENT IS AT THIS POINT.

09:03AM 25 MR. VAN NEST: PERHAPS THAT'S TRUE YOUR HONOR, AND I

09:03AM 1 APPRECIATE THAT. I THINK THAT'S THE MINIMUM WE NEED TO DO, OF  
09:04AM 2 COURSE. BUT MY CONCERN IS IF A LOT OF THE TESTIMONY IS FOCUSED  
09:04AM 3 ON SHOWING THESE HIERARCHIES THROUGHOUT, IT'S GOING TO BE TOO  
09:04AM 4 LATE BY THE TIME WE GET TO THE END OF THE CASE TO SAY, OH, BY  
09:04AM 5 THE WAY, NONE OF THAT STUFF IS ACTUALLY CLAIMED AND ARISTA  
09:04AM 6 DIDN'T COPY ANY OF THAT. THAT'S WHAT I'M WORRIED ABOUT.

09:04AM 7 THE COURT: SO I GUESS, MR. VAN NEST, MY RECOLLECTION  
09:04AM 8 OF OUR DISCUSSION LAST MONDAY IS CISCO ASSERTED TWO SEPARATE  
09:04AM 9 BUILDING BLOCKS AS THEY CATEGORIZE THEM. AND IN YOUR BRIEFING  
09:04AM 10 AND IN OUR HEARING I CAME TO THE CONCLUSION AS YOU HAD ASKED ME  
09:04AM 11 TO RECOGNIZE THAT THE MULTIWORD COMMAND LINES AND THE  
09:04AM 12 HIERARCHIES WERE DOUBLE COUNTING THE SAME THING.

09:04AM 13 AND YOU WERE, I THOUGHT, APPROPRIATELY CONCERNED ABOUT THAT  
09:04AM 14 PILING ON OF THE EFFECT OF THESE TWO CATEGORIES THAT WERE  
09:04AM 15 REALLY ONE AND THE SAME.

09:04AM 16 SO IN FACT, BY COLLAPSING THEM INTO ONE CATEGORY DIDN'T  
09:05AM 17 TAKE ANY EVIDENCE OUT OF THE CASE, AND IT WAS -- AND IN FACT  
09:05AM 18 CISCO REALLY CONCEDED THAT IT WOULD APPROACH THE MULTIWORD  
09:05AM 19 COMMAND LINES THROUGH THE VEHICLE OF THE HIERARCHY RATHER THAN  
09:05AM 20 ASSERTING THE HIERARCHIES SEPARATELY.

09:05AM 21 SO YOU KNOW, I THINK THIS WAS THE UPSHOT OF A LENGTHY  
09:05AM 22 DISCUSSION A WEEK AGO, AND TO MUCH SUCCESS ON YOUR PART, BUT IT  
09:05AM 23 DIDN'T ELIMINATE THE JURY HEARING AMPLE EVIDENCE ABOUT THE  
09:05AM 24 HIERARCHY -- THE ROLE OF HIERARCHIES IN DEVELOPING THE  
09:05AM 25 MULTIWORD COMMAND LINES.

09:05AM 1 AND AGAIN MR. NELSON, IF I'VE MISSTATED OR MISUNDERSTOOD  
09:05AM 2 YOUR CASE, I APOLOGIZE AND YOU CAN HELP ME OUT

09:05AM 3 MR. NELSON: NO, YOU ARE EXACTLY RIGHT. THAT'S WHAT  
09:05AM 4 WE DISCUSSED, THAT'S WHAT WE ARE DOING, THAT'S WHAT THE  
09:05AM 5 WITNESSES HAVE BEEN CLEAR ABOUT AND WILL CONTINUE TO BE CLEAR  
09:05AM 6 ABOUT.

09:05AM 7 THE COURT: OKAY. I THINK IT'S BEST DEALT WITH IN A  
09:05AM 8 CLOSING JURY INSTRUCTION. AND WE WILL HAVE A BETTER SENSE OF  
09:05AM 9 THE VERDICT FORM AT THIS POINT WHICH WILL BE A WORK IN  
09:06AM 10 PROGRESS.

09:06AM 11 MR. VAN NEST: OKAY. VERY WELL, YOUR HONOR. I WILL  
09:06AM 12 REMAIN VIGILANT, I'M STILL CONCERNED, BUT I UNDERSTAND  
09:06AM 13 YOUR HONOR'S RULING. THANK YOU.

09:06AM 14 THE COURT: OKAY. I DON'T THINK THERE'S ANY WITNESS  
09:06AM 15 YOU COULD SIMPLY ASK, YOU ARE NOT ASSERTING HIERARCHIES.

09:06AM 16 MR. VAN NEST: THESE WITNESSES --

09:06AM 17 THE COURT: IT'S NOT APPROPRIATE FOR THESE WITNESSES,  
09:06AM 18 THEY DON'T KNOW THE STRATEGY AND CAN'T BE HELD TO IT.

09:06AM 19 MR. VAN NEST: THAT'S RIGHT. THEY HAVE A LAWYER ON  
09:06AM 20 THEIR LIST SO MAYBE HE WILL KNOW, ONE OF THEIR LAWYERS.

09:06AM 21 MR. NELSON: HE'S JUST FOR THE COPYRIGHT  
09:06AM 22 REGISTRATIONS.

09:06AM 23 THE COURT: OKAY. DOES THAT TAKE CARE OF EVERYTHING?  
09:06AM 24 OKAY. WE ARE GOING TO TAKE A BREAK, I'M GOING TO HANDLE MY  
09:06AM 25 CRIMINAL CALENDAR --

09:06AM 1 MR. FERRALL: THAT IS FINE. THERE IS THE ISSUE OF  
09:06AM 2 THE SUMMARY EXHIBIT AND THE EXCHANGE OF EXEMPLARS THAT  
09:06AM 3 YOUR HONOR TALKED ABOUT. WE CAN ADDRESS THAT AFTER YOUR  
09:06AM 4 CRIMINAL CALENDAR.

09:06AM 5 THE COURT: ARE YOU CONTINUING TO WORK ON THAT --

09:06AM 6 MR. PAK: YES, YOUR HONOR. WE JUST GOT AN EXCHANGE  
09:06AM 7 FROM THEM PRETTY LATE LAST NIGHT. WE ARE STILL WORKING THROUGH  
09:06AM 8 THAT.

09:06AM 9 THE COURT: YOU ARE UP LATER THAN I WAS. ALL RIGHT.  
09:06AM 10 WE WILL COME BACK AT 9:30 THEN.

09:07AM 11 MR. NELSON: THANK YOU, YOUR HONOR.

09:07AM 12 (WHEREUPON A RECESS WAS TAKEN.)

09:07AM 13 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD IN THE  
09:32AM 14 PRESENCE OF THE JURY:)

09:32AM 15 THE COURT: GOOD MORNING, EVERYONE. PLEASE BE  
09:32AM 16 SEATED.

09:32AM 17 WE ARE BACK ON THE RECORD IN THE CISCO VERSUS ARISTA  
09:32AM 18 MATTER. ALL OF OUR JURORS ARE HERE, GOOD MORNING, LADIES AND  
09:32AM 19 GENTLEMEN. AND ALL COUNSEL ARE PRESENT.

09:32AM 20 COUNSEL, ARE YOU GOING TO CONTINUE WITH MR. LOUGHEED?

09:32AM 21 MR. PAK: YES, YOUR HONOR.

09:32AM 22 THE COURT: MR. LOUGHEED, IF YOU WOULD COME FORWARD  
09:32AM 23 TO THE WITNESS STAND, PLEASE, AND I'M GOING TO HAVE YOU SWORN  
09:32AM 24 FOR A NEW COURT DAY.

09:32AM 25 **KIRK LOUGHEED,**

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:32AM 1 BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,  
09:32AM 2 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS  
09:32AM 3 FOLLOWS:

09:32AM 4 THE WITNESS: YES.

09:32AM 5 MR. PAK: MAY I PROCEED, YOUR HONOR?

09:32AM 6 THE COURT: PLEASE DO.

09:32AM 7 MR. PAK: OKAY.

09:32AM 8

09:32AM 9 **DIRECT EXAMINATION BY MR. PAK**

09:32AM 10

09:32AM 11 BY MR. PAK:

09:32AM 12 Q. GOOD MORNING, MR. LOUGHEED.

09:33AM 13 A. GOOD MORNING.

09:33AM 14 Q. SO WE ARE ACTUALLY GOING TO BACKTRACK A LITTLE BIT JUST TO  
09:33AM 15 PICK UP WHERE WE LEFT OFF, AND MR. FISHER, IF I COULD HAVE  
09:33AM 16 SLIDE 28 ON THE SCREEN.

09:33AM 17 AND I BELIEVE WE WERE JUST TALKING ABOUT THE HELP  
09:33AM 18 DESCRIPTIONS THAT ARE PART OF THE CLI INTERFACE OR THE  
09:33AM 19 COMMAND-LINE INTERFACE OF CISCO, DO YOU RECALL THAT?

09:33AM 20 A. YES.

09:33AM 21 Q. AND SO AGAIN, IF YOU COULD JUST REMIND THE JURY WHAT  
09:33AM 22 HAPPENS WHEN YOU TYPE THE QUESTION MARK AFTER A COMMAND WORD.

09:33AM 23 A. SO, YOU TYPE A QUESTION MARK AFTER A COMMAND WORD, IT WILL  
09:33AM 24 DISPLAY SOME HELP, WHAT THE SYSTEM EXPECTS YOU TO TYPE NEXT.  
09:33AM 25 AND IN THIS PARTICULAR EXAMPLE IT'S THE SHOW COMMAND.



DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:33AM 1 YOU TYPE QUESTION MARK, THEN THIS IS ONE SCREEN OF A MANY  
09:33AM 2 SCREEN DISPLAY OF THE POSSIBILITIES THAT YOU COULD HAVE AFTER A  
09:33AM 3 SHOW COMMAND.

09:33AM 4 AND ON THE LEFT IS THE WORD THAT YOU COULD TYPE, THINGS  
09:34AM 5 LIKE SHOW ARP, AND THEN ON THE RIGHT SIDE OF THE SCREEN IS A  
09:34AM 6 HELP MESSAGE OR A HELP DESCRIPTION, JUST SORT OF A LITTLE HINT  
09:34AM 7 THAT THE DEVELOPER LEFT AS TO WHAT THIS KEY WORD MIGHT REFER  
09:34AM 8 TO.

09:34AM 9 Q. I THINK WE TALKED ABOUT THIS THE OTHER DAY, BUT WHO  
09:34AM 10 AUTHORED THE HELP DESCRIPTIONS ON THE RIGHT-HAND SIDE FOR EACH  
09:34AM 11 OF THESE COMMANDS?

09:34AM 12 A. IN THE EARLY NINETIES, WE HAD A CONTRACTOR GO THROUGH THE  
09:34AM 13 SYSTEM AND REVISE THE PARSER AND PUT IN BETTER STRUCTURE,  
09:34AM 14 BASICALLY IMPROVE THE STRUCTURE OF THE SYSTEM THERE. AND ONE  
09:34AM 15 OF THE THINGS HE INTRODUCED WAS THE ABILITY TO TYPE QUESTION  
09:34AM 16 MARK AT ANY PLACE AND THE ABILITY TO HAVE A HELP DESCRIPTION  
09:34AM 17 THAT WOULD BE PRINTED OUT WHEN THE QUESTION MARK WAS TYPED FOR  
09:34AM 18 THAT PARTICULAR PLACE.

09:34AM 19 AND HE AND HIS ENGINEERS WENT THROUGH AND DEFINED THE HELP  
09:35AM 20 MESSAGES FOR THE SYSTEM AT THAT POINT IN THE EARLY NINETIES.  
09:35AM 21 EVER SINCE THEN, ANY ENGINEER THAT HAS BEEN ADDING  
09:35AM 22 FUNCTIONALITY TO THE SYSTEM AND HAS CREATED COMMANDS FOR  
09:35AM 23 MONITORING OR CONFIGURING THE SYSTEM, HIS DEFINED THOSE HELP  
09:35AM 24 MESSAGES.

09:35AM 25 Q. AND JUST TO REMIND THE JURY AGAIN, ARE THERE ANY

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:35AM 1 RESTRICTIONS OR CONSTRAINTS OR FUNCTIONAL DEMAND THAT IS SAY  
09:35AM 2 YOU HAVE TO USE THESE PARTICULAR WORDS IN THIS PARTICULAR  
09:35AM 3 SEQUENCE?

09:35AM 4 A. NO, THEY CAN EXPRESS THEMSELVES HOWEVER THEY WANT. THERE'S  
09:35AM 5 NO -- THE REAL POINT IS TO BE HELPFUL. IF SOMEBODY WANTED TO  
09:35AM 6 DO, YOU KNOW, TYPE IN GETTYSBURG ADDRESS, THERE'S A HELP  
09:35AM 7 MESSAGE. WE LOOK AT THEM REALLY STRANGELY AND SUGGEST THEY  
09:35AM 8 MIGHT DO SOMETHING DIFFERENT, BUT OTHER THAN THAT, DO THE RIGHT  
09:35AM 9 THING AND BE HELPFUL.

09:35AM 10 Q. COULD YOU GIVE THE JURY A UNIQUE EXAMPLE THAT'S FOUND IN  
09:35AM 11 THE CISCO HELP DESCRIPTIONS?

09:35AM 12 A. THERE IS ONE PARTICULAR HELP STRING THAT I NOTICE THAT IS  
09:36AM 13 VERY, VERY UNIQUELY, HAS A CISCO HISTORY, ARP TYPE ARPA.

09:36AM 14 Q. IS THAT ARPA? ARPA?

09:36AM 15 A. YEAH, ARPA AS IN THE ARPA MAP.

09:36AM 16 Q. CAN YOU TELL US WHY THAT'S UNUSUAL OR UNIQUE TO CISCO?

09:36AM 17 A. SO THAT WAS THE TERMINOLOGY THAT I CREATED WHEN THE -- IN  
09:36AM 18 1986 WHEN WE SHIPPED OUR FIRST PRODUCTS, ONE OF OUR BIG  
09:36AM 19 CUSTOMERS WAS HEWLETT-PACKARD. AND THEY PUT SOME OF THEIR  
09:36AM 20 PACKETS ON THE ETHERNET WITH A PARTICULAR SET OF BYTES IN FRONT  
09:36AM 21 OF THEM THAT WAS COMPLETELY DIFFERENT THAN THE WAY EVERYBODY  
09:36AM 22 ELSE IN THE WORLD WAS DOING IT.

09:36AM 23 AND I NEEDED SOME WAY OF DISTINGUISHING BETWEEN THE WAY  
09:36AM 24 THAT HP WAS DOING IT, WHICH WAS TO USE SOMETHING CALLED THE  
09:36AM 25 IEEE STANDARD, AND THE WAY EVERYBODY ELSE WAS DOING IT. AND I

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:37AM 1 HAD TO FIGURE OUT A WAY TO EXPRESS THAT DIFFERENCE. AND THE  
09:37AM 2 CALLED, THE WAY EVERYBODY DID IT WAS ARPA, WHAT I CONSIDERED  
09:37AM 3 THE ARPA NET COMMUNITY WAS DOING IT.

09:37AM 4 SO I HAD TWO KEY WORDS, ARPA AND IEEE.

09:37AM 5 Q. AND WHY WAS IT UNUSUAL TO CHOOSE THE WORD ARPA TO DESCRIBE  
09:37AM 6 WHAT EVERYBODY ELSE WAS DOING AT THE TIME?

09:37AM 7 A. WELL I DON'T THINK ANYBODY ELSE WOULD HAVE THOUGHT OF THAT  
09:37AM 8 WORD TO DESCRIBE IT. IT WAS JUST -- LIKE I SAID, I NEEDED SOME  
09:37AM 9 WAY OF DISTINGUISHING BETWEEN THE IEEE STANDARD WAY OF DOING  
09:37AM 10 THINGS AND THE WAY EVERYBODY ELSE DID IT. I COULD HAVE CHOSEN  
09:37AM 11 OTHER WORDS, BUT AT THE TIME WITH MY EXPERIENCE, THAT WAS WHAT  
09:37AM 12 I SELECTED. AND NOBODY HAS -- HP, VERY SOON THERE AFTER,  
09:37AM 13 CHANGED THEIR SOFTWARE SO THEY DIDN'T DO IT IN THE IEEE WAY,  
09:37AM 14 THEY DID IT THE WAY EVERYBODY ELSE DID IT. SO I DON'T THINK  
09:37AM 15 THERE'S BEEN ANY NEED FOR THAT FUNCTIONALITY FOR 25 YEARS OR  
09:38AM 16 SO.

09:38AM 17 Q. BUT IT'S STILL FOUND IN YOUR HELP DESCRIPTIONS?

09:38AM 18 A. IT'S STILL IN THE HELP DESCRIPTIONS. WE HAVE NOT DELETED  
09:38AM 19 THE CODE.

09:38AM 20 Q. OKAY. SO LET'S TAKE A LOOK AT SLIDE 23, MR. FISHER.

09:38AM 21 AND JUST TO CLEAR, TO MAKE SURE WE HAVE A CLEAN RECORD  
09:38AM 22 BECAUSE THE DEMONSTRATIVES THAT WE ARE SHOWING ARE PART OF THE  
09:38AM 23 EVIDENCE, YOUR TESTIMONY IS. MR. LOUGHEED, I WANT YOU TO LIST  
09:38AM 24 OUT FOR THE JURY AND FOR THE RECORD THE SPECIFIC COMMANDS THAT  
09:38AM 25 YOU AUTHORED THAT ARE AT ISSUE IN THIS CASE. SO YOU COULD USE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:38AM 1 THIS AS A GUIDE TO DO THAT.

09:38AM 2 A. DO YOU WANT ME TO JUST READ THEM?

09:38AM 3 Q. YES, IF YOU COULD?

09:38AM 4 A. OKAY. ARP TIMEOUT, BANNER LOGIN, BANNER MOTD, BOOT SYSTEM,

09:38AM 5 CLEAR ARP-CACHE, CLEAR IGBGP, DISTANCE BGP, INTERFACE ETHERNET,

09:39AM 6 INTERFACE LOOPBACK, IP ACCESS-GROUP, IP ACCESS-LIST, IP

09:39AM 7 ADDRESS, IP DOMAIN LOOKUP, IP DOMAIN-NAME, IP HELPER-ADDRESS,

09:39AM 8 IP HOST, IP NAME-SERVER, IP PROXY-ARP.

09:39AM 9 IP ROUTE, IP ROUTING. MAP-ADDRESS, MAC NO SNMP-SERVER,

09:39AM 10 PASSIVE-INTERFACE, ROUTER BGP, ROUTER RIP.

09:40AM 11 SHOW ARP, SHOW HOSTS. SHOW INTERFACES, SHOW IP

09:40AM 12 ACCESS-LISTS. SHOW IP ARP. SHOW IP BGP. SHOW IP INTERFACE.

09:40AM 13 SHOW IP ROUTE, SHOW SPANNING-TREE, TIMERS BASIC, AND TIMERS

09:40AM 14 BGP.

09:40AM 15 Q. AND AGAIN FOR THE RECORD DID YOU PERSONALLY AUTHOR EACH OF

09:40AM 16 THESE MULTIWORD COMMAND EXPRESSIONS?

09:40AM 17 A. YES.

09:40AM 18 Q. AND DID YOU COPY THEM FROM ANY OTHER SOURCE?

09:40AM 19 A. NO.

09:40AM 20 Q. AND TO YOUR KNOWLEDGE HAS ANY OTHER ORGANIZATION OR COMPANY

09:40AM 21 USED THESE MULTIWORD COMMANDS BEFORE YOU CAME UP WITH THEM?

09:40AM 22 A. BEFORE, NO, I WAS NOT AWARE OF ANYBODY USING ANY SUCH

09:40AM 23 COMMANDS BEFORE I CREATED THEM.

09:41AM 24 Q. AND CAN YOU EXPLAIN TO THE JURY WHAT MULTIWORD SOURCE CODE

09:41AM 25 COMMAND YOU IMPLEMENTED HERE?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:41AM 1 A. I USED A COPY OF THE STANFORD SOURCE THAT I HAD PUT ASIDE  
09:41AM 2 AS MY DEVELOPMENT FOR ROUTER SOFTWARE. THAT WAS THE ORIGINAL  
09:41AM 3 PIECE. AND THEN MANY OF THESE WERE CREATED AFTER I LEFT  
09:41AM 4 STANFORD, I WAS WORKING AT CISCO.

09:41AM 5 Q. AND WHAT HAPPENED TO THE STANFORD VERSION OF THE CODE THAT  
09:41AM 6 DID NOT INCLUDE THESE COMMAND EXPRESSIONS?

09:41AM 7 A. I GAVE THAT BACK TO STANFORD.

09:41AM 8 Q. AND JUST TO MAKE IT CLEAR YOU TALKED ABOUT THE DISPUTE WITH  
09:41AM 9 STANFORD THAT HAPPENED. WHAT HAPPENED IN TERMS OF RESOLVING  
09:41AM 10 THAT DISPUTE?

09:41AM 11 A. THE CEO AT THE TIME MET WITH STANFORD AND NEGOTIATED A  
09:41AM 12 LICENSE FOR THE SOFTWARE THAT I HAD OTHERS HAD WRITTEN AT  
09:41AM 13 STANFORD UNIVERSITY. SO WE HAVE A PAID FOR LICENSE TO ALL THAT  
09:42AM 14 WORK.

09:42AM 15 Q. OKAY. AND CAN YOU THINK OF SOMEBODY ELSE WHO MIGHT HAVE  
09:42AM 16 WRITTEN SOME OF THE CODE THAT WAS LICENSED TO YOU UNDER THE  
09:42AM 17 STANFORD AGREEMENT?

09:42AM 18 A. BILL YEAGER WROTE THIS CODE.

09:42AM 19 Q. AND WHAT TYPE OF CODE DID MR. YEAGER WRITE?

09:42AM 20 A. HE WROTE SOMETHING CALLED AN ETHER TIP CODE OR TERMINAL  
09:42AM 21 SERVER, AND HE HAD WRITTEN SOME ROUTING CODE THAT I TOTALLY  
09:42AM 22 ENDED UP ARE REMOVING FROM THE TESTIMONY BECAUSE I WASN'T  
09:42AM 23 INTERESTED IN IT. AND THEN LATER ON I PUT IN ROUTING CODE OF  
09:42AM 24 MY OWN AUTHORSHIP.

09:42AM 25 Q. OKAY. AND DID EACH OF THESE MULTIWORD COMMANDS AND THE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

09:42AM 1 USER INTERFACE ELEMENTS, DID THAT INVOLVE THE ROUTER CODE THAT  
09:42AM 2 YOU WROTE PERSONALLY?

09:42AM 3 A. YES.

09:42AM 4 Q. SO MR. LOUGHEED, THANK YOU FOR YOUR TESTIMONY, I JUST WANT  
09:42AM 5 TO END WITH ASKING YOU A FEW QUESTIONS HERE. YOU HAVE BEEN AT  
09:42AM 6 CISCO FOR A LONG TIME, ARE YOU PROUD OF THE WORK THAT YOU'VE  
09:42AM 7 DONE FOR 30 YEARS AT CISCO?

09:43AM 8 A. I'M VERY PROUD OF THE WORK THAT I AND OTHERS HAVE DONE AT  
09:43AM 9 CISCO. WHEN WE STARTED THE INTERNET WAS JUST BASICALLY AN IDEA  
09:43AM 10 AND NOW IT'S PART OF EVERY DAY LIFE. IT'S MADE A BIG IMPACT IN  
09:43AM 11 SOCIETY. SOME OF IT NOT NECESSARILY FOR THE GOOD, BUT MOSTLY I  
09:43AM 12 THINK FOR THE GOOD. AND I'M VERY PROUD OF THE GOOD THAT HAS  
09:43AM 13 BEEN BROUGHT INTO PEOPLE'S LIVES.

09:43AM 14 Q. AND PARTICULARLY THE USER INTERFACE THAT WE HAVE BEEN  
09:43AM 15 TALKING ABOUT, THE COMMAND-LINE INTERFACE THAT YOU DESIGNED FOR  
09:43AM 16 CISCO, ARE YOU PROUD OF THAT INTERFACE?

09:43AM 17 A. I AM. IT'S -- IT SUCCEEDED, YOU KNOW, BEYOND MY DREAMS.  
09:43AM 18 IT WAS -- IT WAS SOMETHING THE CUSTOMERS REALLY LOVED. THE  
09:43AM 19 ENGINEERS THAT HAVE COME AFTER ME HAVE CONTINUED TO EXTEND THAT  
09:44AM 20 SOFTWARE, THAT USER INTERFACE. AND IT'S BEEN GOING FOR  
09:44AM 21 30 YEARS AND THAT IS A LONG, LONG TIME IN THE TECH INDUSTRY FOR  
09:44AM 22 SOMETHING TO BE CONTINUALLY USED AND IMPROVED.

09:44AM 23 MR. PAK: I THANK YOU FOR YOUR TESTIMONY. I PASS THE  
09:44AM 24 WITNESS, YOUR HONOR.

09:44AM 25 THE COURT: THANK YOU. MR. SILBERT,

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

CROSS-EXAMINATION?

**CROSS-EXAMINATION BY MR. SILBERT**

Q. GOOD MORNING, MR. LOUGHEED.

A. GOOD MORNING.

MR. SILBERT: YOUR HONOR, MAY WE APPROACH CAN WITH  
COPIES OF MR. LOUGHEED'S DEPOSITION AND BINDERS?

THE COURT: YES.

Q. IT'S NOT AS BAD AS IT LOOKS, SIR, SOME OF THE MANUALS ARE  
QUITE LARGE.

A. OKAY.

Q. GOOD MORNING, SIR. WE HAVEN'T MET. MY NAME IS DAVID  
SILBERT, I'M ONE OF THE ATTORNEYS THAT REPRESENTING ARISTA.

A. PLEASED TO MEET YOU.

Q. THANK YOU. YOU TESTIFIED YESTERDAY ABOUT THE PROCESS THAT  
YOU USED TO CHOOSE CLI COMMANDS, DO YOU RECALL THAT?

A. YES, I DO.

Q. AND YOU SAID THAT FIRST YOU CAME UP WITH A FEW INITIAL KEY  
WORDS SUCH AS SHOW, CORRECT?

A. YES.

Q. AND YOU TESTIFIED THAT AFTER YOU HAD A VERY SMALL SET OF  
COMMANDS FOR A NEW FUNCTIONALITY YOU WOULD LOOK AT WHAT YOU HAD  
ALREADY DONE BEFORE BECAUSE YOU NEEDED TO FIT IN WITH THAT,  
CORRECT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:45AM 1 A. YES.

09:45AM 2 Q. AND YOU SAID THAT YOU NEEDED TO BE REASONABLE AND LOGICAL,

09:45AM 3 RIGHT?

09:45AM 4 A. THAT WOULD BE DESIRABLE. NOT REQUIRED, BUT DESIRABLE.

09:45AM 5 Q. OKAY. AND YOU SAID THAT YOU WANTED THERE TO BE A RHYME AND

09:45AM 6 A REASON TO THINGS, CORRECT?

09:46AM 7 A. YES.

09:46AM 8 Q. YOU ALSO SAID THAT YOU NEEDED TO COMMUNICATE TO NETWORK

09:46AM 9 MANAGERS AND SUPPORT PEOPLE, RIGHT?

09:46AM 10 A. CORRECT.

09:46AM 11 Q. AND YOU SAID THAT YOU NEEDED SOMETHING THAT WOULD MAKE

09:46AM 12 SENSE TO THAT AUDIENCE, RIGHT?

09:46AM 13 A. RIGHT.

09:46AM 14 Q. OKAY. SO LET'S TALK ABOUT SOME OF THE ACTUAL COMMANDS THAT

09:46AM 15 YOU CHOSE. ONE OF THE 506 CLI COMMANDS THAT CISCO IS ASSERTING

09:46AM 16 IN THIS CASE IS THE COMMAND IP ADDRESS, RIGHT?

09:46AM 17 A. YES.

09:46AM 18 Q. AND YOU CLAIM THAT YOU AUTHORED THE COMMAND IP ADDRESS,

09:46AM 19 RIGHT?

09:46AM 20 A. YES.

09:46AM 21 Q. OKAY. YOU SAID YESTERDAY THAT YOU CONSIDERED SEVERAL

09:46AM 22 DIFFERENT OPTIONS FOR IP AND A FEW OPTIONS, AT LEAST TWO

09:46AM 23 OPTIONS FOR ADDRESS, AND YOU DECIDED ON IP ADDRESS, RIGHT?

09:46AM 24 A. YES.

09:46AM 25 Q. OKAY. BUT YOU HAD HEARD THE TERM IP ADDRESS BEFORE YOU



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:47AM 1 JOINED CISCO, HADN'T YOU?

09:47AM 2 A. I HAD INDEED HEARD THE TERM, IP ADDRESS.

09:47AM 3 Q. THAT WAS THE TERM, IP ADDRESS WAS A TERM THAT PEOPLE IN THE  
09:47AM 4 NETWORKING INDUSTRY WERE ALREADY USING BEFORE YOU JOINED CISCO,  
09:47AM 5 RIGHT?

09:47AM 6 A. YES.

09:47AM 7 Q. OKAY. SO THE CHOICE YOU MADE FOR IP ADDRESS WAS TO USE AS  
09:47AM 8 A CLI COMMAND, A TERM THAT THE NETWORKING INDUSTRY WAS ALREADY  
09:47AM 9 USING, RIGHT?

09:47AM 10 A. THAT WAS ONE OF THE TERMS THAT THEY WERE USING, THAT WAS  
09:47AM 11 THE ONE THAT I CHOSE.

09:47AM 12 Q. OKAY. YES.

09:47AM 13 AND JUST TALKING ABOUT THE INDIVIDUAL WORDS IN THAT  
09:47AM 14 COMMAND, YOU SAID YESTERDAY THAT IP REFERS TO THE INTERNET  
09:47AM 15 PROTOCOL, RIGHT

09:47AM 16 A. CORRECT.

09:47AM 17 Q. AND THAT THAT'S THE PROTOCOL THAT GOVERNS HOW DATA IS SENT  
09:47AM 18 OVER THE INTERNET, RIGHT?

09:47AM 19 A. CORRECT.

09:47AM 20 Q. AND OBVIOUSLY YOU'RE FAMILIAR WITH THAT PROTOCOL, RIGHT,  
09:47AM 21 SIR?

09:47AM 22 A. YES.

09:47AM 23 Q. SO WOULD YOU PLEASE LOOK IN YOUR BINDER AT EXHIBIT 6944.

09:48AM 24 DO YOU HAVE THAT IN FRONT OF YOU?

09:48AM 25 A. I BELIEVE I DO.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:48AM 1 Q. AND THAT'S THE INTERNET PROTOCOL, RIGHT?

09:48AM 2 A. RFC, 791.

09:48AM 3 Q. YES. AND WHEN YOU USED ABBREVIATION IP IN A CLI COMMAND,  
09:48AM 4 THAT'S WHAT YOU ARE REFERRING TO, RIGHT, THAT PROTOCOL?

09:48AM 5 A. YES.

09:48AM 6 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 6944.

09:48AM 7 THE COURT: ANY OBJECTION?

09:48AM 8 MR. PAK: NO OBJECTION, YOUR HONOR.

09:48AM 9 THE COURT: IT WILL BE ADMITTED.

09:48AM 10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 6944, HAVING BEEN  
09:48AM 11 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
09:48AM 12 EVIDENCE.)

09:48AM 13 MR. SILBERT:

09:48AM 14 Q. NOW THE DATE ON THIS DOCUMENT IS SEPTEMBER 1981, DO YOU SEE  
09:48AM 15 THAT?

09:48AM 16 A. I SEE THAT.

09:48AM 17 Q. AND THAT WAS SEVERAL YEARS BEFORE CISCO EXISTED, CORRECT?

09:48AM 18 A. CORRECT.

09:48AM 19 Q. SO THIS PROTOCOL DOCUMENT ITSELF USES THE TERM IP TO REFER  
09:49AM 20 TO THE INTERNET PROTOCOL; IS THAT RIGHT?

09:49AM 21 A. I BELIEVE IT DOES. THE PAGE YOU HAVE UP ALSO REFERS TO IT  
09:49AM 22 AS THE INTERNET PROTOCOL SPELLED OUT.

09:49AM 23 Q. OKAY. WOULD YOU PLEASE LOOK AT SECTION 3.3, WHICH IS ON  
09:49AM 24 PAGE 31 OF THE DOCUMENT. AND IN THAT FIRST PARAGRAPH IN  
09:49AM 25 SECTION 3.3, YOU SEE THE TERM IP USED MULTIPLE TIMES, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:49AM 1 A. ON PAGE 31?

09:49AM 2 Q. YEAH. IT MAY BE EASIER, SIR, IF YOU LOOK ON YOUR SCREEN,

09:49AM 3 IT'S UNDER SECTION 3.3?

09:50AM 4 A. YES.

09:50AM 5 Q. YOU SEE THE TERM IP THERE WITHIN THE PROTOCOL DOCUMENT

09:50AM 6 ITSELF, RIGHT?

09:50AM 7 A. YES.

09:50AM 8 Q. AND SO THE INDUSTRY WAS USING THE ABBREVIATION IP FOR

09:50AM 9 INTERNET PROTOCOL BEFORE YOU EVEN JOINED CISCO, CORRECT?

09:50AM 10 A. CORRECT.

09:50AM 11 Q. AND SO THEN LET'S TALK ABOUT THE WORD ADDRESS IN THE PHRASE

09:50AM 12 IP ADDRESS.

09:50AM 13 NOW, ADDRESSING IS A BASIC CONCEPT WITHIN THE INTERNET

09:50AM 14 PROTOCOL, RIGHT

09:50AM 15 A. YES, IT IS.

09:50AM 16 Q. AND IP ADDRESS IS A NUMBER THAT UNIQUELY IDENTIFIES A

09:50AM 17 DEVICE ON AN IP NETWORK; IS THAT RIGHT?

09:50AM 18 A. YES.

09:50AM 19 Q. AND THE INTERNET PROTOCOL DOCUMENT ITSELF CALLS THAT NUMBER

09:50AM 20 AN ADDRESS, ISN'T THAT RIGHT?

09:50AM 21 A. THAT'S CORRECT.

09:50AM 22 Q. SO -- AND IT'S JUST TAKE A LOOK AT THAT. IF YOU COULD LOOK

09:50AM 23 PLEASE AT PAGE 7 OF THE SAME DOCUMENT, UNDER THE HEADING

09:50AM 24 ADDRESSES. IF YOU LOOK AT THE SECOND PARAGRAPH THERE, IT SAYS,

09:51AM 25 ADDRESSES ARE FIXED LENGTH OF FOUR OCTETS. AN ADDRESS BEGINS

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:51AM 1 WITH A NETWORK NUMBER FOLLOWED LIE LOCAL ADDRESS CALLED THE  
09:51AM 2 REST FIELD. DO YOU SEE THAT?

09:51AM 3 A. I DO.

09:51AM 4 Q. THAT'S WHAT YOU'RE TALKING ABOUT WHEN YOU USE THE TERM IP  
09:51AM 5 ADDRESS IN THE CLI COMMAND IP ADDRESS, RIGHT?

09:51AM 6 A. YES.

09:51AM 7 Q. SO FOR THAT COMMAND IP ADDRESS, YOU -- THE TERM IP AND THE  
09:51AM 8 TERM ADDRESS, BOTH APPEAR IN THE IP PROTOCOL DOCUMENT ITSELF,  
09:51AM 9 RIGHT?

09:51AM 10 A. THOSE WORDS DO APPEAR IN THE DOCUMENT ITSELF, YES.

09:51AM 11 Q. AND IN ADDITION TO THAT, BEFORE YOU SELECTED THAT TERM AS A  
09:51AM 12 CLI COMMAND, YOU KNEW THAT PEOPLE IN THE NETWORKING INDUSTRY  
09:51AM 13 WERE ALREADY USING THE TWO-WORD PHRASE IP ADDRESS, CORRECT?

09:52AM 14 A. YES.

09:52AM 15 Q. SO THAT WAS A PRACTICAL CHOICE THAT YOU MADE, WASN'T IT?

09:52AM 16 A. IT WAS A CHOICE I MADE, IT WAS NOT THE ONLY CHOICE I COULD  
09:52AM 17 HAVE MADE. I COULD HAVE SPELLED OUT IP, I COULD HAVE CALLED IT  
09:52AM 18 INTERNET ADDRESS. AND ACTUALLY, IN MY TESTIMONY YESTERDAY, I  
09:52AM 19 STARTED OUT WITH THE COMMAND ADDRESS. AND IN THE FIRST IP  
09:52AM 20 ROUTER, FIRST INTERNET ROUTER, THAT WAS SHIPPED, AND AS WE  
09:52AM 21 BECAME MULTI PROTOCOL THEN I NEEDED SOME WAY DISTINGUISHING  
09:52AM 22 WHAT THAT ADDRESS WAS. SO THE INITIAL COMMAND WAS ADDRESS.

09:52AM 23 Q. RIGHT. WHEN THERE WAS ONLY ONE PROTOCOL AND THEREFORE NO  
09:52AM 24 REASON TO SPECIFY WHAT PROTOCOL YOU WERE USING, YOU USED THE  
09:52AM 25 TERM ADDRESS, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:52AM 1 A. YES.

09:52AM 2 Q. AND THEN ONCE YOU HAD MORE THAN ONE PROTOCOL AND THEREFORE  
09:52AM 3 THERE WAS A REASON TO SPECIFY WHETHER IT WAS IP OR PROTOCOL,  
09:53AM 4 YOU STARTED CALLING IT AN IP ADDRESS, RIGHT?

09:53AM 5 A. THAT WAS THE CHOICE I MADE. THERE WAS THE OTHER  
09:53AM 6 POSSIBILITY OF USING THE WORD ADDRESS AND THEN HAVING THE  
09:53AM 7 COMPUTER DETERMINE WHAT SORT OF PROTOCOL ADDRESS THAT CAME  
09:53AM 8 AFTER IT, BECAUSE TYPICALLY THE DIFFERENT NETWORK PROTOCOLS  
09:53AM 9 HAVE DIFFERENT FORMATTED ADDRESSES THAT YOU CAN ACTUALLY TELL  
09:53AM 10 APART. BUT I WAS CONCERNED THAT THERE MIGHT BE SOME COME ALONG  
09:53AM 11 THAT WOULD ACTUALLY LOOK THE STATEMENT. SO BEING EXPLICIT  
09:53AM 12 ABOUT WHAT SORT OF PROTOCOL ADDRESS IT WAS, WAS -- INFLUENCED  
09:53AM 13 MY CHOICE.

09:53AM 14 I COULD HAVE ALSO HAVE PUT ADDRESS AND THEN IP. AND THEN  
09:53AM 15 AN IP ADDRESS TO DO THE DISTINGUISHING.

09:53AM 16 Q. YEAH. AND THE CHOICE YOU DID MAKE WAS TO USE A TERM THAT  
09:53AM 17 THE NETWORK INDUSTRY WAS ALREADY USING, IP ADDRESS, RIGHT?

09:53AM 18 A. YES.

09:53AM 19 Q. NOW ANOTHER CLI COMMAND THAT YOU CLAIMED TO HAVE AUTHORED  
09:54AM 20 IS THE COMMAND MAC ADDRESS; IS THAT RIGHT?

09:54AM 21 A. YES.

09:54AM 22 Q. AND A MAC ADDRESS IS AN IDENTIFIER THAT IS ASSIGNED TO A  
09:54AM 23 DEVICE ON A NETWORK; IS THAT RIGHT?

09:54AM 24 A. YES.

09:54AM 25 Q. MAC STANDS FOR MEDIA ACCESS CONTROL, CORRECT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:54AM 1 A. CORRECT.

09:54AM 2 Q. AND YOU ARE FAMILIAR WITH THE IEEE, RIGHT?

09:54AM 3 A. IT'S A STANDARDS ORGANIZATION.

09:54AM 4 Q. YOU JUST REFERRED TO THE IEEE WANT A FEW MINUTES AGO IN

09:54AM 5 YOUR TESTIMONY, RIGHT?

09:54AM 6 A. YES.

09:54AM 7 Q. IT STANDS FOR THE INSTITUTE OF ELECTRICAL AND ELECTRONICS

09:54AM 8 ENGINEERS, CORRECT?

09:54AM 9 A. THAT'S MY UNDERSTANDING.

09:54AM 10 Q. AND YOU MENTIONED THAT IT'S A STANDARDS ORGANIZATION. THE

09:54AM 11 IEEE SETS AND DEFINES STANDARDS THAT ARE USED BY THE NETWORKING

09:54AM 12 INDUSTRY AND OTHER INDUSTRIES, CORRECT?

09:54AM 13 A. YES.

09:54AM 14 Q. NOW AT THE TIME YOU ADDED THE MAC ADDRESS COMMAND TO THE

09:54AM 15 CISCO CLI, YOU KNEW THAT THE IEEE WAS ALREADY USING THE TERM

09:54AM 16 MAC ADDRESS, ISN'T THAT RIGHT?

09:54AM 17 A. THEY WERE USING THE TERM MAC ADDRESS TO REFER TO A LEVEL 2

09:55AM 18 OR HARDWARE ADDRESS, YES.

09:55AM 19 Q. RIGHT. SO WITH MAC ADDRESS, YOUR DECISION AGAIN, WAS TO

09:55AM 20 USE AS A CLI COMMAND, A PHRASE THAT THE NETWORKING INDUSTRY WAS

09:55AM 21 ALREADY USING, CORRECT?

09:55AM 22 A. THAT WAS ONE OF THE TERMS THEY WERE USING, BUT YES, IT WAS

09:55AM 23 A TERM THEY WERE USING.

09:55AM 24 Q. OKAY. AND AGAIN, THAT WAS A PRACTICAL CHOICE, WASN'T IT?

09:55AM 25 A. THAT WAS MY JUDGMENT AT THE TIME OF WHAT -- I COULD HAVE

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:55AM 1 CALLED IT OTHER THINGS THAT PEOPLE WOULD HAVE UNDERSTOOD QUITE  
09:55AM 2 WELL, BUT HARDWARE ADDRESS OR IEEE ADDRESS. THINGS LIKE THAT.

09:55AM 3 Q. BUT WHAT YOU DID CHOOSE TO DO WAS USE A TERM THAT THE  
09:55AM 4 NETWORKING INDUSTRY HAD ALREADY BEEN USING?

09:55AM 5 A. IT WAS ONE OF THE COMMON TERMS THEN, YES.

09:55AM 6 Q. OKAY. ANOTHER COMMAND THAT YOU CLAIMED TO HAVE AUTHORED IS  
09:55AM 7 BOOT SYSTEM, RIGHT?

09:55AM 8 A. YES.

09:55AM 9 Q. AND YOU HAD HEARD CERTAINLY PEOPLE IN THE FIELD OF  
09:56AM 10 COMPUTING, TALKING ABOUT BOOTING THE SYSTEM BEFORE YOU JOINED  
09:56AM 11 CISCO, RIGHT?

09:56AM 12 A. YES.

09:56AM 13 Q. AND THAT WAS STANDARD COMPUTING TERMINOLOGY, RIGHT?

09:56AM 14 A. THAT WAS STANDARD, YES, THE USE OF THE WORD BOOT FOR  
09:56AM 15 STARTING THE SYSTEM WAS A COMMON TERM.

09:56AM 16 Q. THAT'S TERMINOLOGY THAT WOULD MAKE SENSE TO YOUR AUDIENCE,  
09:56AM 17 RIGHT?

09:56AM 18 A. THAT'S ONE OF THE TERMS THAT WOULD MAKE SENSE. THE POINT  
09:56AM 19 OF THAT COMMAND WAS TO ACTUALLY SPECIFY A FILE. WHEN THE  
09:56AM 20 ROUTER FINALLY HAD FLASH MEMORY AND COULD KEEP FILES, I NEEDED  
09:56AM 21 SOME WAY OF POINTING TO THE FILE THAT THE SYSTEM WAS GOING TO  
09:56AM 22 START WITH.

09:56AM 23 SO INSTEAD OF BOOT SYSTEM, I COULD HAVE USED, YOU KNOW,  
09:56AM 24 IMAGE OR START FILE OR INITIAL PROGRAM LOAD OR ALL SORTS OF  
09:56AM 25 DIFFERENT THINGS. THAT WOULD HAVE BEEN WELL UNDERSTOOD BY

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:56AM 1 NETWORK ADMINISTRATORS AND COMPUTER PEOPLE

09:57AM 2 Q. IT WAS A PRACTICAL CHOICE, WASN'T IT? BOOT SYSTEM?

09:57AM 3 A. IT WAS A -- IT WAS ONE CHOICE OUT OF MANY. THERE WOULD

09:57AM 4 HAVE BEEN NO MISUNDERSTANDING IF I JUST SAID LIKE IMAGE FILE OR

09:57AM 5 MAIN SYSTEM FILE OR THINGS ALONG THOSE LINES.

09:57AM 6 Q. WOULD IT SURPRISE YOU THAT BESIDES CISCO AND ARISTA, AT

09:57AM 7 LEAST 12 OTHER NETWORKING SWITCH VENDORS USE THE CLI COMMAND

09:57AM 8 BOOT SYSTEM?

09:57AM 9 A. IT MUST HAVE APPEALED TO SOME OTHER PEOPLE AS WELL.

09:57AM 10 Q. AND YOU ALSO CLAIM TO BE THE AUTHOR OF THE CLI COMMAND SHOW

09:57AM 11 HOSTS; IS THAT RIGHT?

09:57AM 12 A. YES.

09:57AM 13 Q. NOW IN FACT, YOU CLAIM TO BE AUTHOR OF NINE DIFFERENT

09:57AM 14 COMMANDS THAT ARE IN THE FORM SHOW, THE WORD SHOW, FOLLOWED BY

09:57AM 15 SOMETHING TO BE SHOWN; IS THAT RIGHT?

09:57AM 16 A. YES.

09:57AM 17 Q. AND COULD WE PLEASE SEE MR. LOUGHEED'S DEMONSTRATIVE SLIDE

09:58AM 18 23. THIS IS THE SLIDE THAT YOU USE, SIR, WE JUST ADDED SOME

09:58AM 19 HIGHLIGHTING ON THE SHOW COMMANDS.

09:58AM 20 YOU CLAIM TO BE THE AUTHOR OF ALL OF THESE COMMANDS THAT

09:58AM 21 ARE IN THE FORM SHOW FOLLOWED BY SOMETHING THAT YOU WANT THE

09:58AM 22 SWITCH TO SHOW, CORRECT?

09:58AM 23 A. YES.

09:58AM 24 Q. AND ARE YOU AWARE THAT OF THE 506 CLI COMMANDS THAT CISCO

09:58AM 25 IS ASSERTING IN THIS CASE, 155 OF THEM ARE IN THE FORM ARE THE



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

09:58AM 1 WORD SHOW, FOLLOWED BY SOMETHING TO BE SHOWN?

09:58AM 2 A. I ACCEPT THAT.

09:58AM 3 Q. OKAY. YOU WERE FAMILIAR WITH THAT SYNTAX IN CLI COMMANDS  
09:58AM 4 BEFORE YOU STARTED WORKING AT CISCO, ISN'T THAT RIGHT?

09:58AM 5 A. I WAS AWARE OF COMMANDS SUCH AS INFORMATION AND I BELIEVE  
09:58AM 6 THERE WERE SOME PROGRAMS THAT USED SHOW TO REQUEST INFORMATION  
09:59AM 7 TO BE DISPLAYED.

09:59AM 8 Q. DIDN'T YOU PERSONALLY ENTER INTO CLI'S BEFORE YOU STARTED  
09:59AM 9 WORKING AT CISCO COMMANDS IN THE FORM SHOW FOLLOWED BY  
09:59AM 10 SOMETHING TO BE SHOWN?

09:59AM 11 A. IN THE DEC SYSTEM-20 SOFTWARE THAT I USED, THE MAIN COMMAND  
09:59AM 12 PROCESSOR USED AN INFORMATION COMMAND, THE KEY WORD  
09:59AM 13 INFORMATION. THERE WAS ANOTHER PROGRAM FOR MONITORING PRINTERS  
09:59AM 14 AND MAG TAPES THAT DIDN'T USE THE SHOW COMMAND. AND THERE WERE  
09:59AM 15 PROBABLY OTHER PROGRAMS THAT DID IT AS WELL.

09:59AM 16 Q. RIGHT. AND THAT PROGRAM THAT YOU REFERRED TO FOR  
09:59AM 17 MONITORING PRINTERS, THAT WAS A PROGRAM CALLED WAY CZAR, RIGHT?

09:59AM 18 A. THE PROGRAM'S NAME APPROXIMATE WAS OPR, AND QUASAR WAS A  
10:00AM 19 SOFTWARE THAT, SOMETHING CALLED A SOFTWARE DEMON THAT RAN IN  
10:00AM 20 THE BACKGROUND THAT OPR TALKS TO.

10:00AM 21 Q. AND OPR, HAD A CLI, DIDN'T IT, SIR?

10:00AM 22 A. YES.

10:00AM 23 Q. AND YOU PERSONALLY USED THAT CLI WHILE YOU WERE AT  
10:00AM 24 STANFORD, RIGHT?

10:00AM 25 A. YES, I DID.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:00AM 1 Q. AND THAT CLI THAT YOU USED AT STANFORD HAD SHOW COMMANDS,  
10:00AM 2 CORRECT?

10:00AM 3 A. YES, IT HAD A SHOW COMMAND.

10:00AM 4 Q. BY THE WAY, YOU USED THAT CLI WHENEVER THE PRINTERS AT  
10:00AM 5 STANFORD STOPPED WORKING, RIGHT?

10:00AM 6 A. YES.

10:00AM 7 Q. AND THAT WAS FREQUENTLY WITH THOUSANDS OF UNDER GRADUATES?

10:00AM 8 A. YES, PRINTERS HAVE NOT CHANGED MUCH IN THE PAST 30 YEARS,  
10:00AM 9 THEY GET PROBLEMS.

10:00AM 10 Q. WE STARTED TALKING ABOUT THE COMMAND SHOW HOSTS AND WE'VE  
10:00AM 11 TALKED ABOUT SHOW. I WANT TO TALK ABOUT HOSTS.

10:01AM 12 IN NETWORKING TERMINOLOGY, A HOST IS A COMPUTER CONNECTED  
10:01AM 13 TO A NETWORK, RIGHT?

10:01AM 14 A. YES. A COMPUTER, A SYSTEM CONNECTED TO A NETWORK.

10:01AM 15 Q. AND YOU WERE AWARE OF PEOPLE IN THE FIELD OF COMPUTING  
10:01AM 16 USING THE WORD HOST BEFORE YOU USED IT IN ANY CLI, RIGHT?

10:01AM 17 A. YES.

10:01AM 18 Q. AND I WANT TO LOOK AT AN EXAMPLE, IF YOU WOULD PLEASE TURN,  
10:01AM 19 LOOK AGAIN AT EXHIBIT 6944, THIS AGAIN IS THE INTERNET PROTOCOL  
10:01AM 20 THAT WE LOOKED AT EARLIER. AGAIN, THIS DOCUMENT IS DATED  
10:01AM 21 BEFORE CISCO EXISTED, RIGHT?

10:01AM 22 A. YES.

10:01AM 23 Q. I WANT TO DIRECT YOUR ATTENTION TO SECTION 1.1 OF THE  
10:01AM 24 DOCUMENT UP THERE AT THE TOP, RIGHT UNDER INTRODUCTION, IT  
10:01AM 25 SAYS, THE INTERNET -- I'M LOOKING DOWN STARTING AT THE THIRD

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:01AM 1 LINE. THE INTERNET PROTOCOL PROVIDES FOR TRANSMITTING BLOCKS

10:01AM 2 OF DATA CALLED DATA GRAMS FROM SOURCE DESTINATIONS WHERE

10:02AM 3 SOURCES AND DESTINATIONS ARE HOSTS IDENTIFIED BY FIXED LENGTH

10:02AM 4 ADDRESSES. DO YOU SEE THAT?

10:02AM 5 A. I DO.

10:02AM 6 Q. THE INTERNET PROTOCOL DOCUMENT ITSELF USES THE WORD HOSTS

10:02AM 7 TO REFER TO DEVICES ON THE NETWORK, RIGHT?

10:02AM 8 A. CORRECT.

10:02AM 9 Q. AND YOU AGREE THAT YOU HAD HEARD PEOPLE IN THE FIELD OF

10:02AM 10 COMPUTING AND NETWORKING USE THE TERM HOSTS IN THAT WAY BEFORE

10:02AM 11 YOU STARTED AT CISCO, RIGHT?

10:02AM 12 A. THAT WAS ONE OF THE WORDS THEY USED, YES.

10:02AM 13 Q. AND THEN THAT'S THE WORD THAT YOU USED IN THE CLI COMMAND,

10:02AM 14 SHOW HOSTS, RIGHT?

10:02AM 15 A. YES.

10:02AM 16 Q. AND THAT, AGAIN, WAS A PRETTY PRACTICAL CHOICE FOR YOU TO

10:02AM 17 MAKE, WASN'T IT, SIR?

10:02AM 18 A. I COULD HAVE USED SYSTEM, WHICH WOULD HAVE BEEN ANOTHER --

10:02AM 19 WE TYPICALLY REFER TO THEM AS SYSTEMS. HOST WAS ANOTHER TERM.

10:02AM 20 Q. WOULD IT SURPRISE YOU THAT BESIDES CISCO AND ARISTA, AT

10:02AM 21 LEAST 11 OTHER NETWORK SWITCH VENDORS USE THE CLI COMMAND SHOW

10:02AM 22 HOSTS?

10:03AM 23 A. GIVEN THEY CAME AFTER CISCO, I'M NOT SURPRISED.

10:03AM 24 Q. OKAY. YOU -- ANOTHER COMMAND THAT YOU CLAIM TO HAVE

10:03AM 25 AUTHORED IS SHOW ARP, RIGHT? ARP?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:03AM 1 A. YES.

10:03AM 2 Q. NOW ARP -- I'M SORRY, WAS THAT A YES?

10:03AM 3 A. YES.

10:03AM 4 Q. ARP REFERS TO THE ADDRESS RESOLUTION PROTOCOL, RIGHT?

10:03AM 5 A. CORRECT.

10:03AM 6 Q. AND YOU'RE FAMILIAR WITH THAT PROTOCOL, RIGHT?

10:03AM 7 A. YES.

10:03AM 8 Q. WOULD YOU PLEASE LOOK AT EXHIBIT 6947 IN YOUR BINDER.

10:03AM 9 THAT'S THE ADDRESS RESOLUTION PROTOCOL, ISN'T IT, SIR?

10:03AM 10 A. YES.

10:03AM 11 MR. SILBERT: AND YOUR HONOR I OFFER EXHIBIT 6947.

10:03AM 12 THE COURT: ANY OBJECTION?

10:03AM 13 MR. PAK: NO OBJECTION, YOUR HONOR.

10:03AM 14 THE COURT: IT WILL BE ADMITTED.

10:03AM 15 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 6947, HAVING BEEN

10:03AM 16 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

10:03AM 17 EVIDENCE.)

10:03AM 18 MR. SILBERT:

10:03AM 19 Q. AGAIN, SIR, IF YOU COULD PLEASE LOOK AT THE DATE ON THIS

10:03AM 20 DOCUMENT IT'S FROM 1982, THAT'S ABOUT ALMOST FOUR YEARS BEFORE

10:04AM 21 YOU JOINED CISCO, RIGHT?

10:04AM 22 A. CORRECT.

10:04AM 23 Q. NOW PEOPLE IN THE NETWORKING INDUSTRY COMMONLY REFER TO THE

10:04AM 24 ADDRESS RESOLUTION PROTOCOL BY ITS INITIALS, THEY CALL IT ARP,

10:04AM 25 DON'T THEY?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:04AM 1 A. THAT'S A COMMON WAY OF REFERRING TO IT, YES.

10:04AM 2 Q. AND THAT'S THE SAME WAY YOU REFER TO IT IN THE CLI COMMAND

10:04AM 3 SHOW ARP, RIGHT?

10:04AM 4 A. THAT'S THE DECISION I MADE.

10:04AM 5 Q. AND THAT WAS ANOTHER PRACTICAL CHOICE FOR YOU TO MAKE,

10:04AM 6 WASN'T IT?

10:04AM 7 A. I COULD HAVE JUST -- I COULD HAVE CALLED IT

10:04AM 8 ADDRESS-RESOLUTION OR ADDRESS RESOLUTION. THOSE WOULD BE OTHER

10:04AM 9 POSSIBILITIES THERE. PEOPLE WOULD HAVE VERY MUCH UNDERSTOOD

10:04AM 10 WHAT I WAS TALKING ABOUT.

10:04AM 11 Q. YEAH. YOU KNOW PEOPLE HAVE TO TYPE THESE THINGS THOUGH,

10:04AM 12 RIGHT?

10:04AM 13 A. THAT HASN'T STOPPED ME FROM ACTUALLY SPELLING THINGS OUT.

10:04AM 14 THAT'S ONE OF THE DISTINCTIONS OF THE CISCO CLI IS THAT THERE'S

10:04AM 15 A LOT OF WORDS THAT DO GET SPELLED OUT.

10:04AM 16 Q. WOULD IT SURPRISE YOU THAT BESIDES CISCO AND ARISTA, AT

10:04AM 17 LEAST 15 OTHER NETWORK SWITCH VENDORS USE THE CLI COMMAND SHOW

10:05AM 18 ARP?

10:05AM 19 A. I ACCEPT YOUR ASSERTION.

10:05AM 20 Q. OKAY. WE ARE NOT GOING TO DO ALL OF THESE BECAUSE IT'S

10:05AM 21 GOING TO TAKE ALL DAY. BUT LET'S TALK ABOUT 1 OR 2 MORE. YOU

10:05AM 22 CLAIMED TO HAVE AUTHORED THE COMMAND SHOW IP ROUTE; IS THAT

10:05AM 23 RIGHT? NOW AGAIN, IP REFERS TO THE INTERNET PROTOCOL, CORRECT?

10:05AM 24 A. YES.

10:05AM 25 Q. YOU HAD HEARD PEOPLE IN THE FIELD TALKING ABOUT ROUTING IN

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:05AM 1 CONNECTION WITH IP BEFORE YOU JOINED CISCO, RIGHT?

10:05AM 2 A. CORRECT.

10:05AM 3 Q. WOULD IT SURPRISE YOU THAT BESIDES CISCO AND ARISTA, AT  
10:05AM 4 LEAST 17 OTHER SWITCH VENDORS USE THE COMMAND SHOW IP ROUTE?

10:05AM 5 A. I PROVIDED A MODEL AND THEY APPEAR TO HAVE FOLLOWED IT.

10:05AM 6 Q. OKAY. YOU ALSO CLAIM TO BE THE AUTHOR OF THE COMMAND SHOW  
10:05AM 7 SPANNING-TREE; IS THAT RIGHT?

10:05AM 8 A. YES.

10:05AM 9 Q. NOW A SPANNING-TREE IS AN INDUSTRY STANDARD NETWORKING  
10:06AM 10 PROTOCOL, RIGHT?

10:06AM 11 A. IT IS.

10:06AM 12 Q. YOU DIDN'T COME UP WITH THE TERM SPANNING-TREE?

10:06AM 13 A. NO, NO.

10:06AM 14 Q. THE TERM SPANNING-TREE IS USED IN IEEE STANDARDS, RIGHT?

10:06AM 15 A. YES, IT IS.

10:06AM 16 Q. SO AGAIN IN THE COMMAND SHOW SPANNING-TREE, YOU TOOK THE  
10:06AM 17 WORD SHOW AND THEN YOU USED AN EXISTING INDUSTRY, THE NAME OF  
10:06AM 18 AN EXISTING INDUSTRY STANDARD PROTOCOL, RIGHT?

10:06AM 19 A. YES, I DID.

10:06AM 20 Q. THAT AGAIN WAS A PRACTICAL CHOICE FOR YOU TO TAKE, WASN'T  
10:06AM 21 IT?

10:06AM 22 A. ACTUALLY, I COULD HAVE ACTUALLY, ANOTHER CHOICE THAT I  
10:06AM 23 COULD HAVE MADE WAS STP, WHICH IS HOW A PROTOCOL IS OFTEN KNOWN  
10:06AM 24 AS. IN THIS PARTICULAR CASE, I DECIDED FOR WHATEVER REASON AT  
10:06AM 25 THE TIME, TO SPELL IT OUT.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:06AM 1 Q. WOULD IT SURPRISE YOU THAT BESIDES CISCO AND ARISTA, AT  
10:06AM 2 LEAST 14 OTHER SWITCH VENDORS USED THE CLI COMMAND SHOW  
10:06AM 3 SPANNING-TREE?

10:06AM 4 A. I THINK I PROVIDED A MODEL AND THEY FOLLOWED IT.

10:07AM 5 Q. OKAY. LET'S CHANGE TOPICS SLIGHTLY.

10:07AM 6 NOW, YESTERDAY MR. PAK ASKED YOU IF YOU HAD COPIED ANY  
10:07AM 7 MULTIWORD COMMAND FROM ANY OTHER SOURCE; DO YOU RECALL MR. PAK  
10:07AM 8 ASKING YOU THAT?

10:07AM 9 A. YES.

10:07AM 10 Q. AND YOU ANSWERED VERY DEFINITELY, NO, YOU HAD NOT DONE  
10:07AM 11 THAT, RIGHT?

10:07AM 12 A. THAT WAS MY REPLY.

10:07AM 13 Q. BUT IN FACT, YOU ACTUALLY DID COPY MULTIWORD COMMANDS FROM  
10:07AM 14 PRE-EXISTING CLI'S INTO THE CISCO CLI, DIDN'T YOU?

10:07AM 15 A. NO.

10:07AM 16 Q. WELL, WHEN YOU WORKED AT STANFORD, YOU WERE A SYSTEMS  
10:07AM 17 PROGRAMMER ON A SYSTEM CALLED THE DEC SYSTEM-20, RIGHT?

10:07AM 18 A. CORRECT.

10:07AM 19 Q. AND YOU SHOWED US A PICTURE OF THOSE COMPUTERS IN YOUR  
10:07AM 20 TESTIMONY YESTERDAY, RIGHT?

10:07AM 21 A. YES.

10:07AM 22 Q. AND IF WE COULD PLEASE LOOK AT MR. LOUGHEED'S DEMONSTRATIVE  
10:07AM 23 SLIDE TWO. THOSE ARE THE DEC SYSTEM-20 COMPUTERS YOU WORKED  
10:08AM 24 ON, RIGHT?

10:08AM 25 A. THAT'S ONE DEC SYSTEM-20 COMPUTER, YES.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:08AM 1 Q. THE OPERATING SYSTEM THAT RAN ON THE DEC SYSTEM-20 WAS  
10:08AM 2 CALLED TOPS 20, RIGHT?

10:08AM 3 A. CORRECT.

10:08AM 4 Q. AND WHEN YOU WERE AT STANFORD YOU HAD EXTENSIVE EXPERIENCE  
10:08AM 5 IN THE DETAILS OF THE DEC SYSTEM-20 COMPUTER SYSTEM AND ITS  
10:08AM 6 OPERATION, RIGHT?

10:08AM 7 A. YES.

10:08AM 8 Q. AND YOU HAD KNOWLEDGE OF ITS OPERATING SYSTEM TOPS 20,  
10:08AM 9 CORRECT?

10:08AM 10 A. CORRECT.

10:08AM 11 Q. TOPS 20 HAD A CLI, RIGHT?

10:08AM 12 A. ALL THOSE MACHINES IN THAT ERA HAD CLI'S, YES.

10:08AM 13 Q. RIGHT. AND ONE THING THAT THE TOPS 20 CLI ALLOWED YOU TO  
10:08AM 14 DO WAS TO CONTROL HOW MANY LINES APPEARED ON THE MONITOR,  
10:08AM 15 RIGHT?

10:08AM 16 A. YES.

10:08AM 17 Q. AND TOPS 20 HAD A CLI COMMAND FOR ALLOWING YOU TO DO THAT,  
10:08AM 18 RIGHT?

10:08AM 19 A. I BELIEVE IT DID.

10:08AM 20 Q. AND THAT CLI COMMAND WAS THE COMMAND, TERMINAL LENGTH,  
10:08AM 21 ISN'T THAT RIGHT?

10:09AM 22 A. I WOULD HAVE TO GO AND CONSULT A MANUAL TO SEE IF THAT WAS  
10:09AM 23 THE CASE.

10:09AM 24 Q. OKAY. WELL, LET'S DO THAT. IF YOU WOULD PLEASE LOOK AT  
10:09AM 25 EXHIBIT 6965. DO YOU HAVE THAT IN FRONT OF YOU?



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:09AM 1 A. I DO HAVE THAT IN FRONT OF ME.

10:09AM 2 Q. THAT'S THE TOPS 20 COMMAND REFERENCE MANUAL, RIGHT?

10:09AM 3 A. YES.

10:09AM 4 Q. THE DATE ON THIS DOCUMENT, IF YOU LOOK AT THE FRONT, IS

10:09AM 5 SEPTEMBER 1985. DO YOU SEE THAT?

10:09AM 6 A. YES.

10:09AM 7 Q. THAT'S FROM BEFORE YOU JOINED CISCO, RIGHT, ALMOST A YEAR

10:09AM 8 BEFORE YOU JOINED CISCO?

10:09AM 9 A. CORRECT.

10:09AM 10 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 6965 INTO

10:09AM 11 EVIDENCE.

10:09AM 12 THE COURT: ANY OBJECTION?

10:09AM 13 MR. PAK: NO OBJECTION, YOUR HONOR.

10:09AM 14 THE COURT: IT WILL BE ADMITTED.

10:09AM 15 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 6965, HAVING BEEN

10:09AM 16 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

10:09AM 17 EVIDENCE.)

10:09AM 18 MR. SILBERT:

10:09AM 19 Q. WOULD YOU PLEASE TURN TO PAGE 366 OF THE MANUAL.

10:10AM 20 A. I SEE IT ON THE SCREEN HERE.

10:10AM 21 Q. THESE ARE COMMANDS TO SET THE CHARACTERISTICS OF YOUR

10:10AM 22 TERMINAL, RIGHT?

10:10AM 23 A. YES.

10:10AM 24 Q. WHAT THE MANUAL EXPLAINS HERE IS THAT FIRST YOU TYPE THE

10:10AM 25 WORD TERMINAL AND THEN YOU COULD TYPE 1 OF THE CAPITALIZED

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:10AM 1 WORDS UNDER THAT HEADING, FEATURE ARGUMENTS, RIGHT?

10:10AM 2 A. YES.

10:10AM 3 Q. AND IF YOU SCROLL DOWN A LITTLE YOU WILL SEE ONE OF THE

10:10AM 4 WORDS UNDER THAT HEADING IS THE WORD LENGTH, RIGHT?

10:10AM 5 A. YES.

10:10AM 6 Q. AND THEN IT EXPLAINS AFTER LENGTH YOU TYPE IN A NUMBER FOR

10:10AM 7 HOW MANY LINES YOU WANT TO APPEAR ON THE TERMINAL, AND THE

10:10AM 8 DEFAULT NUMBER IS 66 LINES, RIGHT?

10:10AM 9 A. YES.

10:10AM 10 Q. SO TO SET THE NUMBER OF LINES ON THE TERMINAL USING THE

10:10AM 11 TOPS 20 CLI BEFORE YOU JOINED CISCO, YOU USED THE COMMAND

10:10AM 12 TERMINAL LENGTH, RIGHT?

10:11AM 13 A. YES.

10:11AM 14 Q. WHEN YOU GOT TO CISCO, YOU INSTITUTED A COMMAND TO CONTROL

10:11AM 15 THE NUMBER OF LINES THAT WOULD BE SHOWN ON THE TERMINAL, RIGHT?

10:11AM 16 A. YES.

10:11AM 17 Q. AND THE COMMAND THAT YOU USED AT CISCO IS THE COMMAND,

10:11AM 18 TERMINAL LENGTH, RIGHT?

10:11AM 19 A. YES.

10:11AM 20 Q. SO THAT COMMAND, YOU USED THE SAME COMMAND IN THE CISCO CLI

10:11AM 21 THAT YOU HAD PREVIOUSLY USED IN THE TOPS 20 CLI, RIGHT?

10:11AM 22 A. THEY ARE THE SAME -- THEY ARE THE SAME COMMAND, YES, I

10:11AM 23 AGREE.

10:11AM 24 Q. OKAY. NOW, DO YOU KNOW, SIR, THAT EARLIER IN THIS CASE,

10:11AM 25 CISCO IDENTIFIED YOU AS THE AUTHOR OF THE COMMAND, TERMINAL

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:11AM 1 LENGTH, IN THE CISCO CLI?

10:11AM 2 A. YES, I PUT THAT COMMAND INTO THE CISCO CLI.

10:11AM 3 Q. AND ARE YOU AWARE THAT CISCO SAID THAT THAT COMMAND IN THE

10:11AM 4 CISCO CLI TERMINAL LENGTH WAS DOCUMENTED AS A CISCO COMMAND BY

10:11AM 5 JULY 20TH OF 1986?

10:11AM 6 A. YES.

10:11AM 7 Q. NOW YOU STARTED WORKING AT CISCO IN JULY OF 1986, RIGHT?

10:12AM 8 A. YES.

10:12AM 9 Q. IN FACT YOU SPECIFICALLY STARTED WORKING AT CISCO ON

10:12AM 10 JULY 14TH OF 1986, RIGHT?

10:12AM 11 A. I WAS DOING WORK ACTUALLY EARLIER THAN THAT, BUT YES.

10:12AM 12 Q. OKAY. IT DIDN'T TAKE YOU LONG TO COME UP WITH THE COMMAND,

10:12AM 13 TERMINAL LENGTH, TO BE USED IN THE CISCO CLI, RIGHT? DAYS OR

10:12AM 14 WEEKS AT THE MOST?

10:12AM 15 A. I DON'T REMEMBER THE DETAILS, BUT --

10:12AM 16 Q. AND THE REASON IT DIDN'T TAKE YOU LONG IS YOU USED, IN THE

10:12AM 17 CISCO CLI, A MULTIWORD COMMAND THAT YOU HAD PREVIOUSLY USED IN

10:12AM 18 SOMEONE ELSE'S CLI, RIGHT?

10:12AM 19 A. YES.

10:12AM 20 Q. YES. AND THERE'S NOTHING WRONG WITH DOING THAT, IS THERE?

10:12AM 21 A. ONE COMMAND CAN BE A COINCIDENCE. 500 IS NOT A

10:13AM 22 COINCIDENCE.

10:13AM 23 Q. ARE YOU SAYING THIS WAS A COINCIDENCE, IS THAT YOUR

10:13AM 24 TESTIMONY?

10:13AM 25 A. IT WAS PROBABLY SOMETHING THAT WAS UNDOUBTEDLY INFLUENCED

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:13AM 1 BY MY EXPERIENCE WITH THE TOPS 20 SYSTEM, YES.

10:13AM 2 Q. RIGHT. SO YOU USED, IN THE CISCO CLI, A MULTIWORD COMMAND  
10:13AM 3 THAT YOU HAD PREVIOUSLY USED IN ANOTHER COMPANY'S CLI, ISN'T  
10:13AM 4 THAT RIGHT?

10:13AM 5 A. YES.

10:13AM 6 Q. AND THERE'S NOTHING WRONG WITH THAT, IS THERE?

10:13AM 7 A. I -- ONE COMMAND, I DON'T THINK THERE'S A PROBLEM WITH. IF  
10:13AM 8 I WAS TO COPY THE ENTIRE TOPS 20 COMMAND SET, I THINK THAT  
10:13AM 9 WOULD BE A PROBLEM.

10:13AM 10 Q. WELL, WHY DON'T WE LOOK AT ANOTHER EXAMPLE.

10:14AM 11 A. OKAY.

10:14AM 12 Q. IF YOU WOULD PLEASE LOOK AT EXHIBIT 5031. I THINK THAT'S  
10:14AM 13 IN A SEPARATE BINDER. THAT'S THE ONE THAT'S IN THE SEPARATE  
10:14AM 14 BINDER THAT WE GAVE YOU.

10:14AM 15 A. OKAY.

10:14AM 16 Q. NOW YOU USE A COMMAND IN THE CISCO CLI CALLED ARP TIMEOUT,  
10:14AM 17 RIGHT?

10:14AM 18 A. YES, THERE IS SUCH A COMMAND.

10:14AM 19 Q. AND ARE YOU AWARE THAT ARP TIMEOUT, THAT CISCO TOLD US  
10:14AM 20 PREVIOUSLY THAT ARP TIMEOUT WAS ENTERED INTO THE CISCO CLI IN  
10:14AM 21 1993?

10:14AM 22 A. THAT WAS -- OKAY.

10:15AM 23 Q. OKAY.

10:15AM 24 A. THAT MAY HAVE BEEN THE EARLIEST RECORD THAT WE HAVE OF THAT  
10:15AM 25 COMMAND.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:15AM 1 Q. WOULD YOU LOOK AT EXHIBIT 51, THIS IS A DOCUMENT THAT CAME  
10:15AM 2 FROM YOUR FILES. THIS IS A DEC COMMAND REFERENCE, RIGHT?

10:15AM 3 A. YES.

10:15AM 4 Q. YOU SEE THE DATE ON THAT IS MAY 1993, IF YOU LOOK ON THE  
10:15AM 5 SECOND PAGE?

10:15AM 6 THE COURT: WHAT DOCUMENT ARE WE LOOKING AT?

10:15AM 7 MR. SILBERT: 5031, IT'S IN A SEPARATE BINDER,  
10:15AM 8 YOUR HONOR.

10:15AM 9 THE COURT: I HEARD YOU SAY 51.

10:15AM 10 MR. SILBERT: I'M SORRY, YOUR HONOR, I PROBABLY DID.

10:15AM 11 Q. IF YOU LOOK ON THE SECOND PAGE DO YOU SEE THE DATE MAY,  
10:15AM 12 1993?

10:15AM 13 A. YES, I DO.

10:15AM 14 MR. SILBERT: YOUR HONOR I OFFER EXHIBIT 5031 INTO  
10:15AM 15 EVIDENCE.

10:15AM 16 THE COURT: ANY OBJECTION?

10:15AM 17 MR. PAK: NO, YOUR HONOR.

10:15AM 18 THE COURT: IT WILL BE ADMITTED.

10:15AM 19 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5031, HAVING BEEN  
10:15AM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
10:15AM 21 EVIDENCE.)

10:15AM 22 MR. SILBERT:

10:15AM 23 Q. WOULD YOU PLEASE TURN, MR. LOUGHEED, TO THE PAGE ENDING  
10:15AM 24 146. I'M REFERRING TO WHAT LAWYERS CALL THE BATES NUMBERS,  
10:16AM 25 THOSE NUMBERS THAT ARE ADDED TO THE BOTTOM. DO YOU SEE THE

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:16AM 1 COMMAND ARP TIMEOUT AT THE END OF THE PAGE?

10:16AM 2 A. YES, I DO.

10:16AM 3 Q. DEC WAS USING THE ARP TIMEOUT CERTAINLY BY MAY 1993, RIGHT?

10:16AM 4 A. YES.

10:16AM 5 Q. YOU HAD THIS PARTICULAR REFERENCE IN YOUR FILES, RIGHT?

10:16AM 6 A. IT MAY HAVE BEEN IN MY FILES BUT I DON'T REMEMBER ACTUALLY

10:16AM 7 EVER SEEING THIS DOCUMENT BEFORE IT WAS PRESENTED IN THE

10:16AM 8 DEPOSITION.

10:16AM 9 Q. YOU BELIEVE IT'S A COINCIDENCE THAT BOTH YOU AND DEC USED

10:16AM 10 THE SAME COMMAND ARP TIMEOUT WHEN YOU HAD THIS DOCUMENT IN YOUR

10:16AM 11 FILES?

10:16AM 12 A. ACTUALLY, I DO BELIEVE IT'S A COINCIDENCE. I BELIEVE IF

10:16AM 13 YOU GO AND EXAMINE THE ARP PROTOCOL DOCUMENT, THAT IT MAY REFER

10:17AM 14 TO TIME OUTS, AGING COMMANDS -- AGING ARP ENTRIES. IF YOU --

10:17AM 15 IT WAS A WELL KNOWN EARLY PROBLEM THAT IF YOU MOVED A COMPUTER

10:17AM 16 FROM ONE NETWORK TO ANOTHER, YOU MIND END UP WITH AN ARP

10:17AM 17 PROTOCOL ENTRIES THAT NEEDED TO BE -- THAT WOULD BECOME STALE.

10:17AM 18 Q. RIGHT. AND THE ARP PROTOCOL DOCUMENT ITSELF, I CAN TELL

10:17AM 19 YOU, DOES USE THE WORD TIME OUT TO REFER TO THAT, RIGHT?

10:17AM 20 A. I'M SURE IT REFERS TO THAT CONCEPT.

10:17AM 21 Q. SO YOU USED, IN YOUR COMMAND, THE NAME OF THE PROTOCOL,

10:17AM 22 ARP, AND THEN A WORD, TIMEOUT, THAT APPEARS IN THE PROTOCOL

10:17AM 23 DOCUMENT ITSELF, RIGHT?

10:17AM 24 A. YES, I USED THAT WORD.

10:17AM 25 Q. AND THAT'S JUST A LOGICAL WAY TO DO IT, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:17AM 1 A. I COULD HAVE USED THE WORD STALE, FOR EXAMPLE, WHICH IS  
10:17AM 2 ANOTHER COMMONLY UNDERSTOOD WAY OF REFERRING TO SUCH ENTRIES.

10:18AM 3 Q. OKAY. BUT CERTAINLY, YOUR BELIEF IS THAT IT MUST BE A  
10:18AM 4 COINCIDENCE THAT BOTH CISCO AND DEC USED THE COMMAND ARP  
10:18AM 5 TIMEOUT BECAUSE THE WORD TIMEOUT SIMPLY APPEARS IN THE ARP  
10:18AM 6 PROTOCOL ITSELF, RIGHT?

10:18AM 7 A. I BELIEVE IT'S A COINCIDENCE THAT DEC AND CISCO CAME UP  
10:18AM 8 WITH THE SAME TERMINOLOGY.

10:18AM 9 Q. BECAUSE YOU ARE BOTH SIMPLY USING A LOGICAL WAY TO EXPRESS  
10:18AM 10 THINGS TO THE INTENDED AUDIENCE OF NETWORK ENGINEERS, RIGHT?

10:18AM 11 A. WE BOTH HIT UPON THE SAME CHOICE ON HOW TO EXPRESS THE  
10:18AM 12 CONCEPTS.

10:18AM 13 Q. OKAY. YOU CAN PUT THIS THAT DOCUMENT ASIDE.

10:18AM 14 YOU COPIED OTHER FEATURES FROM THE TOPS 20 CLI AS WELL,  
10:18AM 15 DIDN'T YOU, MR. LOUGHEED?

10:18AM 16 A. I'M SURE YOU WILL REFRESH MY MEMORY ON WHAT THEY MIGHT BE.

10:18AM 17 Q. WELL, TOPS 20 USED A PERCENT SIGN TO LEAD TO AN ERROR  
10:18AM 18 MESSAGE, DIDN'T IT?

10:18AM 19 A. WARNING MESSAGE, YES.

10:18AM 20 Q. AND YOU DECIDED TO DO THE SAME THING IN THE CISCO CLI,  
10:19AM 21 RIGHT?

10:19AM 22 A. YES.

10:19AM 23 MR. NELSON: OBJECTION, YOUR HONOR.

10:19AM 24 I THINK WE ARE GETTING INTO UNPROTECTABLE ELEMENTS THAT ARE  
10:19AM 25 NOT ASSERTED IN THE CASE.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:19AM 1 THE COURT: LET'S MOVE ON THEN.

10:19AM 2 MR. SILBERT: OKAY.

10:19AM 3 Q. THERE WERE ALSO PROGRAMS RUNNING ON TOPS 20 THAT HAD MODES,  
10:19AM 4 RIGHT?

10:19AM 5 A. THE EXACT COMMAND PROCESSOR HAD MODES, YES.

10:19AM 6 Q. RIGHT. BY THE WAY, IOS, CISCO'S IOS HAS MANY MODES,  
10:19AM 7 DOESN'T IT?

10:19AM 8 A. IT DOES.

10:19AM 9 Q. DOZENS OF MODES, RIGHT?

10:19AM 10 A. RIGHT.

10:19AM 11 Q. THERE ARE FOUR MODES THAT CISCO IS ASSERTING IN THIS CASE,  
10:19AM 12 CORRECT?

10:19AM 13 A. THAT'S MY UNDERSTANDING.

10:19AM 14 Q. AND ACTUALLY, IF WE COULD LOOK AT THE SLIDE AGAIN, PLEASE,  
10:19AM 15 MR. LOUGHEED'S DEMONSTRATIVE SLIDE 17.

10:19AM 16 NOW, I WANT TO ASK YOU ABOUT THIS IMAGE. THIS IS AN IMAGE  
10:19AM 17 THAT WAS PREPARED BY CISCO FOR THIS LAWSUIT, RIGHT?

10:20AM 18 A. CORRECT.

10:20AM 19 Q. THIS IS NOT SOMETHING THAT ANYONE USING A CISCO SWITCH  
10:20AM 20 ACTUALLY SEES THIS IMAGE, RIGHT?

10:20AM 21 A. IT'S A -- IT'S A GRAPHICAL REPRESENTATION OF WHAT THE  
10:20AM 22 HIERARCHY IS.

10:20AM 23 Q. RIGHT. IT'S A GRAPHICAL REPRESENTATION THAT CISCO CREATED  
10:20AM 24 FOR THIS COURT CASE, RIGHT?

10:20AM 25 A. I BELIEVE THAT'S THE CASE.



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:20AM 1 Q. AND YOU'RE AWARE, AREN'T YOU, THAT THERE ARE MANY SWITCH  
10:20AM 2 VENDORS WHO USE ALL FOUR OF THESE MODES?

10:20AM 3 A. I -- I PROVIDED AN EXAMPLE.

10:20AM 4 Q. AND MANY OTHER VENDORS FOLLOWED IT, RIGHT?

10:20AM 5 A. AND MANY OTHER VENDORS FOLLOWED THE EXAMPLE OF HAVING  
10:20AM 6 MODES.

10:20AM 7 Q. ONE OF THE MODES THAT CISCO IS ASSERTING IN THIS CASE  
10:20AM 8 THAT'S SHOWN HERE IS THE MODE, IS CALLED USER EXEC, RIGHT?

10:20AM 9 A. UH-HUH -- YES.

10:20AM 10 Q. NOW TOPS 20 HAD AN INTERFACE, YOU SAID, RIGHT?

10:21AM 11 A. YES.

10:21AM 12 Q. AND IT WAS CALLED EXEC, RIGHT?

10:21AM 13 A. THAT WAS THE NAME OF THAT PROGRAM, YES.

10:21AM 14 Q. YEAH. AND YOU WERE INSPIRED BY TOPS 20'S USE OF THE WORD  
10:21AM 15 EXEC WHEN YOU CHOSE TO CALL THE MODE IN CISCO THE EXEC MODE,  
10:21AM 16 RIGHT?

10:21AM 17 A. THAT WAS A CHOICE I MADE. THE OTHER POSSIBILITY WAS TO  
10:21AM 18 CALL IT SHELL, WHICH IS THE UNIX EQUIVALENT OF SUCH A PROGRAM.

10:21AM 19 Q. YEAH. YOU CHOSE TO CALL IT EXEC, AND YOU WERE INSPIRED BY  
10:21AM 20 TOPS 20'S USE OF THE TERM EXEC WHEN YOU DECIDED TO CALL IT THE  
10:21AM 21 EXEC MODE IN THE CASE OF THE CISCO CLI, RIGHT?

10:21AM 22 A. YES.

10:21AM 23 Q. NOW CISCO HAS SHOWN HERE CISCO IS ALSO ASSERTING A  
10:21AM 24 PRIVILEGED EXEC MODE, RIGHT?

10:21AM 25 A. YES.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:21AM 1 Q. CISCO DIDN'T COME UP WITH THE IDEA OF A PRIVILEGED EXEC  
10:21AM 2 MODE, RIGHT?

10:21AM 3 A. THAT'S CORRECT.

10:21AM 4 Q. TOPS 20 HAD A PRIVILEGED MODE, RIGHT?

10:21AM 5 A. CORRECT.

10:21AM 6 Q. AND IN TOPS 20, YOU TYPED A COMMAND TO ENTER THE PRIVILEGED  
10:22AM 7 MODE, RIGHT?

10:22AM 8 A. YES.

10:22AM 9 Q. AND THE COMMAND YOU TYPED IN TOPS 20 WAS THE COMMAND  
10:22AM 10 ENABLE, RIGHT?

10:22AM 11 A. CORRECT.

10:22AM 12 Q. AND YOU ALSO TYPE A COMMAND IN THE CISCO IOS CLI TO ENTER  
10:22AM 13 THE PRIVILEGED MODE, RIGHT?

10:22AM 14 A. I WASN'T SURE IF YOU WERE FINISHED ASKING ME A QUESTION.

10:22AM 15 Q. YOU DO TYPE A COMMAND IN THE CISCO IOS CLI TO ENTER THE  
10:22AM 16 PRIVILEGED MODE, CORRECT?

10:22AM 17 A. CORRECT.

10:22AM 18 Q. AND THE COMMAND THAT YOU TYPE IN THE CISCO CLI IS THE  
10:22AM 19 COMMAND ENABLE, RIGHT?

10:22AM 20 A. THE SINGLE WORD COMMAND ENABLE, YES.

10:22AM 21 Q. AND THAT'S BECAUSE YOU USE THE SAME COMMAND TO ENTER THE  
10:22AM 22 PRIVILEGED MODE IN IOS THAT YOU HAD PREVIOUSLY USED TO ENTER  
10:22AM 23 THE PRIVILEGE MODE IN TOPS 20, RIGHT?

10:22AM 24 A. YES.

10:22AM 25 Q. OKAY. LET'S TALK A LITTLE BIT ABOUT HELP DESCRIPTIONS.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:22AM 1 THE PURPOSE OF A HELP DESCRIPTION IS TO, I THINK YOU SAID  
10:22AM 2 EARLIER THIS MORNING, GIVE A HINT AS TO, I'M NOT QUOTING  
10:22AM 3 VERBATIM, BUT SOMETHING ALONG THOSE LINES.

10:23AM 4 A. BE HELPFUL.

10:23AM 5 Q. GIVE A HINT, BE HELPFUL OF WHAT THE COMMAND IS, THAT IS  
10:23AM 6 RIGHT?

10:23AM 7 A. YES.

10:23AM 8 Q. THERE ARE TENS OF THOUSANDS OF HELP DESCRIPTIONS WITHIN  
10:23AM 9 IOS; IS THAT RIGHT?

10:23AM 10 A. THERE VERY WELL COULD BE.

10:23AM 11 Q. AND DO YOU KNOW WHETHER ARISTA ALSO HAS THOUSANDS OF HELP  
10:23AM 12 DESCRIPTIONS IN ARISTA'S SYSTEM?

10:23AM 13 A. I DON'T KNOW FROM PERSONAL EXPERIENCE.

10:23AM 14 Q. OKAY. OF ALL THOSE HELP DESCRIPTIONS, CISCO WAS ACCUSING  
10:23AM 15 ARISTA OF COPYING ABOUT 450 IN THIS CASE, RIGHT?

10:23AM 16 A. I WILL ACCEPT THAT ASSERTION.

10:23AM 17 Q. OKAY. AND LET'S JUST TALK ABOUT SOME OF THEM.

10:23AM 18 ONE OF THE HELP DESCRIPTIONS THAT CISCO ACCUSES ARISTA OF  
10:23AM 19 COPYING IS THE PHRASE DELETE A FILE, RIGHT?

10:23AM 20 A. I ACCEPT THAT ASSERTION.

10:23AM 21 Q. YOU HAD HEARD THE TERM DELETE A FILE, IN THE COMPUTER  
10:23AM 22 CONTEXT BEFORE CISCO WAS FOUNDED, RIGHT?

10:24AM 23 A. YES.

10:24AM 24 Q. OTHER COMPANIES USED THE PHRASE, DELETE A FILE, BEFORE  
10:24AM 25 CISCO DID, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

- 10:24AM 1 A. YES.
- 10:24AM 2 Q. IN FACT, THE TOPS 20 USER GUIDE USED THE PHRASE DELETE A
- 10:24AM 3 FILE TO EXPLAIN WHAT ITS DELETE COMMAND DID, RIGHT?
- 10:24AM 4 A. YES.
- 10:24AM 5 Q. AND THEN CISCO USED THAT PHRASE IN ITS HELP DESCRIPTIONS,
- 10:24AM 6 RIGHT?
- 10:24AM 7 A. AN ENGINEER DECIDED THAT WAS A USEFUL HINT TO GIVE SOMEBODY
- 10:24AM 8 WHEN THEY TYPED THE QUESTION MARK AT A PARTICULAR POINT.
- 10:24AM 9 Q. THEY USED THE SAME PHRASE THAT OTHERS IN THE INDUSTRY,
- 10:24AM 10 INCLUDING TOPS 20 IN ITS USER MANUAL, HAD ALREADY USED, RIGHT?
- 10:24AM 11 A. YES.
- 10:24AM 12 Q. ANOTHER EXAMPLE, CISCO ACCUSES ARISTA OF COPYING THE HELP
- 10:24AM 13 DESCRIPTION TRANSMISSION CONTROL PROTOCOL FOR THE KEY WORD TCP;
- 10:24AM 14 IS THAT RIGHT?
- 10:24AM 15 A. I ACCEPT THAT ASSERTION.
- 10:24AM 16 Q. NOW TRANSMISSION CONTROL PROTOCOL IS ANOTHER INDUSTRY
- 10:24AM 17 STANDARD PROTOCOL, RIGHT?
- 10:24AM 18 A. YES.
- 10:24AM 19 Q. AND IF YOU WOULD PLEASE LOOK AT EXHIBIT 5724 IN YOUR
- 10:25AM 20 BINDER. IS THAT THE TRANSMISSION CONTROL PROTOCOL?
- 10:25AM 21 A. THAT IS RC793 WHICH DEFINES THE TRANSMISSION CONTROL
- 10:25AM 22 PROTOCOL.
- 10:25AM 23 Q. THE DATE ON THIS DOCUMENT IS SEPTEMBER 1981, RIGHT?
- 10:25AM 24 A. CORRECT.
- 10:25AM 25 Q. THAT'S SEVERAL YEARS BEFORE CISCO WAS FOUNDED, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:25AM 1

A. YES.

10:25AM 2

MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 5724 INTO

10:25AM 3

EVIDENCE.

10:25AM 4

THE COURT: ANY OBJECTION, MR. PAK?

10:25AM 5

MR. PAK: NO OBJECTION, YOUR HONOR.

10:25AM 6

THE COURT: IT WILL BE ADMITTED.

10:25AM 7

(WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5724, HAVING BEEN

10:25AM 8

PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

10:25AM 9

EVIDENCE.)

10:25AM 10

MR. SILBERT:

10:25AM 11

Q. IN THE NETWORKING CONTEXT SIR, TCP IS AN ACRONYM FOR

10:25AM 12

TRANSMISSION CONTROL PROTOCOL, RIGHT?

10:26AM 13

A. YES.

10:26AM 14

Q. CISCO DIDN'T COIN THE PHRASE TRANSMISSION CONTROL PROTOCOL,

10:26AM 15

RIGHT?

10:26AM 16

A. NO.

10:26AM 17

Q. YOU WOULDN'T BE SURPRISED TO LEARN THAT OTHER VENDORS IN

10:26AM 18

THE NETWORKING INDUSTRY USED THE TERM TRANSMISSION CONTROL

10:26AM 19

PROTOCOL IN THEIR OWN HELP DESCRIPTIONS FOR THE COMMAND TERM

10:26AM 20

TCP, RIGHT?

10:26AM 21

A. IT WOULDN'T BE A SURPRISE TO ME.

10:26AM 22

Q. BECAUSE TCP IS AN ACRONYM FOR TRANSMISSION CONTROL

10:26AM 23

PROTOCOL, RIGHT?

10:26AM 24

A. YES.

10:26AM 25

Q. AND THAT'S AN INDUSTRY STANDARD PROTOCOL, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:26AM 1 A. THAT IS A STANDARD PROTOCOL, YES.

10:26AM 2 Q. WHY DON'T WE LOOK AT ONE MORE EXAMPLE. THE HELP STRING FOR

10:26AM 3 THE COMMAND, SHOW CLOCK, IS DISPLAYED THE SYSTEM CLOCK; IS THAT

10:26AM 4 RIGHT?

10:26AM 5 A. I ACCEPT THAT.

10:26AM 6 Q. THAT'S A PRETTY STRAIGHTFORWARD DESCRIPTION OF WHAT THAT

10:26AM 7 COMMAND DOES, RIGHT?

10:26AM 8 A. I BELIEVE IT IS.

10:27AM 9 Q. YOU HAVE NO PERSONAL KNOWLEDGE OF HOW ANY OF THESE HELP

10:27AM 10 DESCRIPTIONS WERE CREATED; IS THAT RIGHT?

10:27AM 11 A. I HAVE NO PERSONAL KNOWLEDGE OF THESE. I WAS -- I KNOW

10:27AM 12 WHAT THE GENERAL PROCESS IS FOR CREATING THEM, AT WHICH I

10:27AM 13 DESCRIBED EARLIER IN MY TESTIMONY.

10:27AM 14 Q. ISN'T IT TRUE THAT CISCO HAS NOT KEPT TRACK OF HOW

10:27AM 15 ENGINEERS SELECTED PARTICULAR HELP STRINGS?

10:27AM 16 A. WE -- WE HAVE NOT KEPT TRACK OF HOW THE ENGINEERS COME UP

10:27AM 17 WITH THE HELP STRINGS. SOME OF OUR RECORDS FOR THE MORE RECENT

10:27AM 18 PARTS OF THE OPERATING SYSTEM ARE VERY COMPLETE AND WE KNOW

10:27AM 19 EXACTLY WHO AND WHEN. BUT AS WE GO FURTHER BACK IN TIME IN

10:27AM 20 SOME OF THE OLDER COMMANDS, WE KNOW WHICH PIECE OF THE SOFTWARE

10:27AM 21 THEY ARE ASSOCIATED WITH, BUT WE DON'T NECESSARILY KNOW WHICH

10:27AM 22 DID WHAT.

10:27AM 23 Q. AS FAR AS YOU KNOW, NOBODY AT CISCO EVER CHOKED TO SEE IF

10:28AM 24 ITS ENGINEERS WERE EVER COPYING HELP STRINGS FROM SOMEBODY

10:28AM 25 ELSE?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:28AM 1 A. THERE WOULD BE -- THERE WAS NO PARTICULAR -- CREATING A  
10:28AM 2 HELP STRING, A HELP MESSAGE IS A VERY EASY THING TO DO, A VERY  
10:28AM 3 QUICK THING TO DO. AND MOSTLY WE ARE CREATING NEWER TECHNOLOGY  
10:28AM 4 THAT ACTUALLY DOESN'T EXIST ANYWHERE.

10:28AM 5 SO I -- THE ENGINEER WOULD NOT BE PARTICULARLY MOTIVATED TO  
10:28AM 6 GO LOOK ANYWHERE ELSE. AND QUITE FRANKLY, IT'S JUST A LOT  
10:28AM 7 EASIER FOR AN ENGINEER TO JUST TYPE IN WHAT THEY THINK IS A  
10:28AM 8 USEFUL THING AND GET ON WITH CREATING THE COMMAND.

10:28AM 9 Q. LET'S TALK ABOUT ANOTHER SUBJECT.

10:28AM 10 YOU TESTIFIED YESTERDAY AND AGAIN THIS MORNING ABOUT YOUR  
10:28AM 11 DEPARTURE FROM STANFORD UNIVERSITY, RIGHT?

10:28AM 12 A. I DID.

10:28AM 13 Q. AND I BELIEVE THE TERM YOU USED YESTERDAY WAS THAT YOU HAD  
10:29AM 14 AN HONEST DISAGREEMENT WITH STANFORD ABOUT WHO OWNED THE  
10:29AM 15 SOFTWARE THAT EVENTUALLY BECAME CISCO'S IOS OPERATING SYSTEM,  
10:29AM 16 RIGHT?

10:29AM 17 A. YES.

10:29AM 18 Q. AND THAT WAS SOFTWARE THAT YOU WORKED ON WHILE YOU WERE AN  
10:29AM 19 EMPLOYEE OF STANFORD, RIGHT?

10:29AM 20 A. YES.

10:29AM 21 Q. YOU EXPLAINED TODAY THAT OTHER PEOPLE AT STANFORD ALSO  
10:29AM 22 CONTRIBUTED TO THAT SOURCE CODE, RIGHT?

10:29AM 23 A. THEY CONTRIBUTED TO AN EARLIER VERSION OF THAT SOFTWARE.

10:29AM 24 Q. YEAH. AND SPECIFICALLY MR. YEAGER THAT YOU MENTIONED THIS  
10:29AM 25 MORNING?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:29AM 1 A. YES.

10:29AM 2 Q. AND YOU TOOK A COPY OF THAT SOFTWARE AND YOU GAVE IT TO

10:29AM 3 MR. BOSACK AND MS. LERNER AT CISCO, CORRECT?

10:29AM 4 A. I TOOK THE SOURCES THAT I HAD BEEN WORKING ON AND I DIVIDED

10:29AM 5 THEM INTO TWO GROUPS OF FILES. ONE WHICH WAS THE STANFORD

10:29AM 6 STUFF THAT WAS WORKING WITH -- THAT I CONSIDERED FOR STANFORD

10:30AM 7 AND WAS THE SOFTWARE THAT WAS RUNNING AT STANFORD, AND THEN I

10:30AM 8 HAD ANOTHER COPY OF THE SOFTWARE THAT I WAS DEVELOPING WITH THE

10:30AM 9 IDEA OF IT WOULD EVENTUALLY BECOME PART OF CISCO. AND THAT WAS

10:30AM 10 THE COPY THAT I, AS YOU SAID, GAVE TO MR. BOSACK AND

10:30AM 11 MS. LERNER.

10:30AM 12 Q. YOU HAD NO PERMISSION FROM STANFORD TO DO THAT, RIGHT?

10:30AM 13 A. THAT IS CORRECT.

10:30AM 14 Q. AND IN FACT, YOUR SUPERVISOR AT STANFORD DEMANDED THAT YOU

10:30AM 15 GIVE THAT SOFTWARE TO HIM, RIGHT?

10:30AM 16 A. YES.

10:30AM 17 Q. AND YOU REFUSED TO DO THAT, RIGHT?

10:30AM 18 A. YES.

10:30AM 19 Q. AND THEN STANFORD THREATENED LEGAL ACTION, RIGHT?

10:30AM 20 A. STANFORD SENT A LETTER TO US AT CISCO BASICALLY SEEKING A

10:30AM 21 LICENSE FOR THAT SOFTWARE.

10:30AM 22 Q. OKAY. AND -- TAKING THE POSITION THAT STANFORD OWNED THE

10:30AM 23 SOFT AND CISCO WAS REQUIRED TO PAY THE LICENSE?

10:30AM 24 A. THEY WANTED TO DISCUSS THE INTELLECTUAL PROPERTY RIGHTS

10:31AM 25 ISSUE OF THAT SOFTWARE.



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:31AM 1 Q. AND YOU SAID THIS MORNING THAT CISCO WANTED TO WORK OUT A  
10:31AM 2 DEAL WITH STANFORD AND TOOK A LICENSE WITH STANFORD?

10:31AM 3 A. WE ARRANGED FOR AND PAID A LICENSE.

10:31AM 4 Q. AND WHAT CISCO PAID FOR THE LICENSE TO THE SOFTWARE THAT  
10:31AM 5 BECAME THE IOS OPERATING SYSTEM WAS \$20,000 IN 1987 AND ANOTHER  
10:31AM 6 \$150,000 IN 2002; IS THAT RIGHT?

10:31AM 7 A. THAT SOUNDS REASONABLE. THEY CERTAINLY WEREN'T BETTING ON  
10:31AM 8 US SUCCEEDING AS A COMPANY.

10:31AM 9 Q. BY 2002?

10:31AM 10 A. I DON'T KNOW WHAT THE 2002 STUFF IS ABOUT, I WAS NOT  
10:31AM 11 FAMILIAR WITH IT ANY NEGOTIATIONS AT THAT POINT.

10:31AM 12 Q. BY THE WAY, YOU SAID THAT WHEN YOU LEFT STANFORD TO GO TO  
10:31AM 13 CISCO, YOU WERE AWARE OF OTHER STARTUP COMPANIES WHO HAD COME  
10:31AM 14 OUT OF STANFORD, RIGHT?

10:31AM 15 A. YES.

10:31AM 16 Q. AND YOU MENTIONED SUN MICRO SYSTEMS AS A STARTUP THAT HAD  
10:31AM 17 COME OUT OF STANFORD, RIGHT?

10:31AM 18 A. YES.

10:32AM 19 Q. WERE YOU AWARE AT THE TIME OF ANDY BECHTOLSHEIM, THE  
10:32AM 20 COFOUNDER OF SUN MICRO SYSTEMS, NOW COFOUNDER OF ARISTA?

10:32AM 21 A. I KNOW -- I KNOW MR. BECHTOLSHEIM.

10:32AM 22 Q. YOU KNEW HIM BY REPUTATION?

10:32AM 23 A. BY REPUTATION.

10:32AM 24 Q. NOW STANFORD HAD A -- STRIKE THAT. CISCO HAD A MANUAL FOR  
10:32AM 25 ITS -- FOR ITS OPERATING SYSTEM BY JULY 20TH OF 1986, RIGHT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:32AM 1 A. CORRECT.

10:32AM 2 Q. AND WE ESTABLISHED EARLIER THAT YOU STARTED WORKING AT

10:32AM 3 CISCO AT SOME POINT IN JULY OF 1986, RIGHT?

10:32AM 4 A. RIGHT, YES.

10:32AM 5 Q. SO CISCO HAD A MANUAL FOR ITS OPERATING SYSTEM WITHIN,

10:32AM 6 LET'S SAY, WEEKS AFTER YOU STARTED WORKING AT CISCO, RIGHT?

10:32AM 7 A. YES.

10:32AM 8 Q. YOU DIDN'T WRITE THAT MANUAL FROM SCRATCH, DID YOU, SIR?

10:33AM 9 A. IT WAS A MODIFICATION OF A MANUAL THAT I HAD WRITTEN AT

10:33AM 10 STANFORD. AND THAT MANUAL WAS ALSO ONE OF THE THINGS THAT WAS

10:33AM 11 LICENSED BY CISCO.

10:33AM 12 Q. YEAH. BUT THE LICENSE -- LET'S BACK UP. YOU COPIED

10:33AM 13 PORTIONS OF THE STANFORD USER MANUAL TO CREATE THE FIRST CISCO

10:33AM 14 MANUAL, RIGHT?

10:33AM 15 A. I WAS THE AUTHOR OF BOTH MANUALS.

10:33AM 16 Q. LET'S LOOK AT THE STANFORD MANUAL, WHICH WAS EXHIBIT 5025.

10:33AM 17 IF YOU COULD PLEASE LOOK IN YOUR BINDER. THAT'S A STANFORD

10:33AM 18 MANUAL, RIGHT?

10:33AM 19 A. YES.

10:33AM 20 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 5025.

10:33AM 21 MR. PAK: NO OBJECTION, YOUR HONOR.

10:33AM 22 THE COURT: IT WILL BE ADMITTED.

10:33AM 23 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5025, HAVING BEEN

10:33AM 24 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

10:33AM 25 EVIDENCE.)

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:33AM 1 MR. SILBERT:

10:33AM 2 Q. IF YOU LOOK RIGHT THERE ON THE COVER PAGE AT THE BOTTOM, IT

10:33AM 3 SAYS COPYRIGHT, 1986, STANFORD UNIVERSITY, RIGHT?

10:34AM 4 A. CORRECT.

10:34AM 5 Q. OKAY. NOW YOU COPIED SUBSTANTIAL PORTIONS OF THIS MANUAL,

10:34AM 6 COPYRIGHTED TO STANFORD UNIVERSITY, TO CREATE THE CISCO MANUAL,

10:34AM 7 RIGHT?

10:34AM 8 A. THAT'S CORRECT.

10:34AM 9 Q. AND THE LICENSE THAT CISCO EVENTUALLY NEGOTIATED WITH

10:34AM 10 STANFORD WAS AT SOME POINT AFTER YOU CREATED THE CISCO MANUAL,

10:34AM 11 RIGHT?

10:34AM 12 A. THAT'S CORRECT.

10:34AM 13 Q. AT THE TIME YOU COPIED THE STANFORD MANUAL TO CREATE THE

10:34AM 14 CISCO MANUAL, YOU HAD NO LICENSE FROM STANFORD, RIGHT?

10:34AM 15 A. THAT'S CORRECT.

10:34AM 16 Q. OKAY. I WANT TO SWITCH GEARS TO ANOTHER TOPIC.

10:34AM 17 YOU TESTIFIED YESTERDAY ABOUT HOW CISCO WAS FOUNDED, RIGHT

10:34AM 18 A. YES.

10:34AM 19 Q. AND ONE OF YOUR ROLES AT CISCO HAS BEEN TO PARTICIPATE IN

10:34AM 20 ACTIVITIES THAT CELEBRATE THE HISTORY OF CISCO, RIGHT?

10:34AM 21 A. I'M OFTEN ASKED TO TALK ABOUT THE HISTORY OF CISCO, YES.

10:35AM 22 Q. OKAY. WOULD YOU PLEASE LOOK AT EXHIBIT 5464. THIS IS A

10:35AM 23 DOCUMENT THAT WAS PRODUCED TO US FROM YOUR FILES?

10:35AM 24 A. OKAY.

10:35AM 25 Q. AND YOU SEE YOU ARE QUOTED IN THIS DOCUMENT AS WELL, IF YOU

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:35AM 1 LOOK UNDER THE HEADING, CRUCIAL EARLY DECISIONS LEAD TO  
10:35AM 2 SUCCESS. DO YOU SEE A QUOTE ATTRIBUTED TO YOU? I THINK IT'S A  
10:35AM 3 PARAGRAPH OR TWO DOWN FROM THAT, ACTUALLY. IT'S THE PARAGRAPH  
10:35AM 4 THAT BEGINS, WE WERE VERY INTERESTED IN WHATEVER THE CUSTOMER  
10:35AM 5 WANTED TO PAY, SAYS LOUGHEED. DO YOU SEE THAT?

10:35AM 6 A. YES, I SEE THAT.

10:35AM 7 MR. SILBERT: YOUR HONOR I OFFER EXHIBIT 5464.

10:36AM 8 MR. PAK: NO OBJECTION, YOUR HONOR.

10:36AM 9 THE COURT: IT WILL BE ADMITTED.

10:36AM 10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5464, HAVING BEEN  
10:36AM 11 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
10:36AM 12 EVIDENCE.)

10:36AM 13 MR. SILBERT:

10:36AM 14 Q. IF WE LOOK AT THAT PARAGRAPH I REFERRED TO EARLIER, CRUCIAL  
10:36AM 15 EARLY DECISIONS LEAD TO SUCCESS. DO YOU SEE THAT ON THE MIDDLE  
10:36AM 16 OF THE FIRST PAGE?

10:36AM 17 A. YES.

10:36AM 18 Q. IT SAYS SEVERAL EARLY DECISIONS ABOUT HOW TO BUILD IOS GAVE  
10:36AM 19 IT STAYING POWER AND MADE CISCO A STANDOUT, SAY TWO OF CISCO'S  
10:36AM 20 ENGINEERING LEADERS, JOEL BION, SVP OF RESEARCH AND ADVANCED  
10:36AM 21 DEVELOPMENT, WHO LEADS THE NETWORK SOFTWARE AND SERVICE  
10:36AM 22 TECHNOLOGY GROUP, NSSTG, AND JOINED CISCO 20 YEARS AGO, AND  
10:36AM 23 KIRK LOUGHEED, A MEMBER OF CISCO'S FOUNDING TEAM, ITS FIRST  
10:36AM 24 ENGINEER, THE DESIGNER OF IOS AND A CISCO FELLOW.

10:36AM 25 DO YOU SEE THAT?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:36AM 1 A. I SEE THAT.

10:36AM 2 Q. NOW MR. BION, THAT'S WHO YOU REPORT TO AT CISCO, CORRECT?

10:36AM 3 A. HE'S BEEN MY BOSS SINCE 2001, I BELIEVE.

10:36AM 4 Q. OKAY. OF THE SO IF YOU COULD TURN THE PAGE, I WANT TO

10:37AM 5 DIRECT YOUR ATTENTION TO THE SECOND PAGE UNDER THE HEADING

10:37AM 6 TRANSFORMING AN INDUSTRY. NOW WHAT THE FIRST SENTENCE THERE

10:37AM 7 SAYS IS ONE OF IOS'S BIGGEST LEGACIES IS ESTABLISHING THE

10:37AM 8 INDUSTRY STANDARD FOR HOW PEOPLE INTERFACE WITH ROUTERS AND

10:37AM 9 SWITCHES KNOWN AS THE COMMAND LANGUAGE INTERFACE OR CLI.

10:37AM 10 DO YOU SEE THAT?

10:37AM 11 A. I SEE THAT PARAGRAPH.

10:37AM 12 Q. AND THEN THERE'S A QUOTE FROM MR. BION, YOUR BOSS, IT SAYS

10:37AM 13 "ANYONE WHO GOES TO CONFIGURE A COMPETITOR'S PRODUCT, PEOPLES

10:37AM 14 VERY MUCH AT HOME."

10:37AM 15 DO YOU SEE THAT LANGUAGE?

10:37AM 16 A. I SEE THAT.

10:37AM 17 Q. THAT'S A TRUE STATEMENT, RIGHT?

10:37AM 18 A. I DON'T KNOW IF IT'S TRUE. IT CERTAINLY -- YOU CERTAINLY

10:37AM 19 HAVE COMPETITORS PRODUCTS THAT DO NOT USE CISCO CLI'S.

10:38AM 20 Q. OH, I SEE. SO NOT EVERY COMPETITOR USES THE CISCO CLI?

10:38AM 21 A. I DON'T KNOW ABOUT EVERY COMPETITOR.

10:38AM 22 Q. OKAY. WOULD YOU PLEASE -- YOU CAN PUT THAT ASIDE. WOULD

10:38AM 23 YOU PLEASE TURN TO EXHIBIT 8267.

10:38AM 24 THIS IS ANOTHER E-MAIL PRODUCED TO US FROM YOUR FILES.

10:38AM 25 WOULD YOU PLEASE LOOK AT THE ADDRESSEE'S OF THE E-MAIL. I'M

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:38AM 1 LOOKING AT THE E-MAIL BELOW THE LINE AT THE TOP THIRD OF THE  
10:38AM 2 PAGE. THIS WAS SENT TO YOU ALONG WITH MANY OTHER PEOPLE AT  
10:38AM 3 CISCO, RIGHT

10:38AM 4 A. I DON'T SEE MY NAME THERE DIRECTLY, BUT I WOULDN'T BE  
10:39AM 5 SURPRISED. I KNOW OF THE TEAM.

10:39AM 6 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 8267.

10:39AM 7 THE COURT: ANY OBJECTION?

10:39AM 8 MR. PAK: I'M NOT SURE THERE'S FOUNDATION LAID WITH  
10:39AM 9 THIS PARTICULAR WITNESS, YOUR HONOR. THERE ARE OTHER WITNESSES  
10:39AM 10 THAT WILL BE COMING TO TRIAL.

10:39AM 11 THE COURT: ALL RIGHT. WHY DON'T YOU LAY --

10:39AM 12 MR. SILBERT: I CAN PROVIDE THE METADATA PRODUCED TO  
10:39AM 13 US BY CISCO THAT SAYS THIS CAME FROM US.

10:39AM 14 THE COURT: SURE. LET'S DO THAT.

10:39AM 15 MR. SILBERT: OKAY.

10:39AM 16 MR. PAK: YOUR HONOR, I CAN JUST LOOK AT THE  
10:39AM 17 METADATA.

10:39AM 18 THE COURT: THAT WOULD BE GREAT, WHY DON'T WE DO IT  
10:39AM 19 THAT WAY.

10:39AM 20 MR. SILBERT: IT'S GOING TO TAKE ME A MOMENT TO FIND  
10:40AM 21 THE METADATA, YOUR HONOR. I CAN MOVE TO A SEPARATE DOCUMENT.

10:40AM 22 THE COURT: WHY DON'T WE DO THAT. AT A BREAK YOU CAN  
10:40AM 23 PULL IT OUT AND I'M SURE WE CAN TAKE CARE OF IT.

10:40AM 24 MR. SILBERT: OKAY.

10:40AM 25 Q. LET'S GO TO -- WOULD YOU PLEASE LOOK AT EXHIBIT 7996.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:40AM 1 BEFORE WE DO THAT, DO YOU MIND JUST LOOKING AGAIN AT THAT

10:40AM 2 DOCUMENT, JUST IF WE CAN SAVE OURSELVES THE TROUBLE. DO YOU

10:40AM 3 KNOW THAT YOU'RE A MEMBER OF ONE OF THESE E-MAIL GROUPS THAT

10:40AM 4 THIS E-MAIL IS SENT TO?

10:40AM 5 A. I DON'T KNOW WHICH LIST, SOFTWARE ARP IS A POSSIBILITY. I

10:40AM 6 KNOW THE PEOPLE THAT ARE REFERENCED HERE.

10:41AM 7 THE COURT: WE WILL TAKE A BREAK IN FIVE MINUTES, SO

10:41AM 8 YOU WILL BE ABLE TO DEAL WITH IT.

10:41AM 9 MR. SILBERT: OKAY.

10:41AM 10 Q. WOULD YOU PLEASE THEN TURN TO EXHIBIT 7996.

10:41AM 11 A. OKAY.

10:41AM 12 Q. THIS IS ANOTHER DOCUMENT THAT WAS PRODUCED TO US FROM YOUR

10:41AM 13 FILES AT CISCO. IT'S A CISCO PRESENTATION WITH THE TITLE,

10:41AM 14 TOMORROW STARTS HERE. DO YOU SEE THE LOGO FOR CISCO LIVE?

10:41AM 15 A. I'M NOT AWARE EVER WHAT THE LOGO IS FOR CISCO LIVE ON. I

10:41AM 16 SEE THE CISCO LOGO AND I KNOW WHAT CISCO LIVE IS.

10:41AM 17 Q. CISCO LIVE IS AN EVENT THAT'S PUT ON BY CISCO EVERY YEAR,

10:41AM 18 RIGHT?

10:41AM 19 A. YES.

10:41AM 20 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 7996.

10:41AM 21 THE COURT: ANY OBJECTION?

10:41AM 22 MR. PAK: NO, YOUR HONOR.

10:42AM 23 AGAIN, ARE YOU REPRESENTING THAT IT'S FOR -- NO OBJECTION,

10:42AM 24 YOUR HONOR.

10:42AM 25 THE COURT: IT WILL BE ADMITTED.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:42AM 1 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 7996, HAVING BEEN  
10:42AM 2 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
10:42AM 3 EVIDENCE.)

10:42AM 4 MR. SILBERT:

10:42AM 5 Q. NOW IF YOU SEE AT THE TOP, IT SAYS UP AT THE TOP OF THE  
10:42AM 6 PAGE THERE IT'S FROM 2014.

10:42AM 7 A. I DON'T SEE THAT ON THE --

10:42AM 8 Q. IT'S HIGHLIGHTED ON THE SCREEN, IT'S THE VERY TOP OF THE  
10:42AM 9 FIRST PAGE?

10:42AM 10 A. OH, YES, YES, OKAY.

10:42AM 11 Q. 2014, THAT'S THE SAME YEAR THAT CISCO FILED THIS CURRENT  
10:42AM 12 LAWSUIT AGAINST ARISTA, RIGHT?

10:42AM 13 A. I ACCEPT THAT ASSERTION.

10:42AM 14 Q. OKAY. AND IF YOU WOULD PLEASE TURN TO THE SECOND PAGE OF  
10:42AM 15 THE SLIDE DECK. DO YOU SEE THE PRESENTER HERE HAS THE TITLE,  
10:42AM 16 SENIOR EDUCATION SPECIALIST, CISCO SYSTEMS?

10:42AM 17 A. YES.

10:42AM 18 Q. ALL RIGHT. NOW, IF I CAN ASK YOU, PLEASE, TO TURN TO SLIDE  
10:43AM 19 NUMBER 24. THE TITLE OF THE SLIDE IS IOS CLI, RIGHT?

10:43AM 20 A. I SEE THAT.

10:43AM 21 Q. OKAY. AND IF YOU READ THE TEXT IN THE NOTES BELOW, IT SAYS  
10:43AM 22 STARTING ON THE SENTENCE ON THE THIRD LINE, IT SAYS, OVER THE  
10:43AM 23 YEARS, THE BASIC LOOK AND FEEL OF THE COMMAND-LINE INTERFACE  
10:43AM 24 HAS BEEN MIMICKED BY OTHER MANUFACTURERS, TO THE POINT WHERE IT  
10:43AM 25 IS THE DE FACTO STANDARD OF NETWORKING PROGRAMMING -- NETWORK



CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:43AM 1

PROGRAMMING.

10:43AM 2

DO YOU SEE THAT LANGUAGE?

10:43AM 3

A. I SEE THAT LANGUAGE.

10:43AM 4

Q. THAT WAS A TRUE STATEMENT, WASN'T IT?

10:43AM 5

A. I -- I DISAGREE.

10:43AM 6

Q. YOU THINK THAT THE STATEMENT THAT CISCO MADE IN A

10:43AM 7

PRESENTATION AT ITS OWN CISCO LIVE EVENT THAT THE CISCO IOS CLI

10:44AM 8

HAS BECOME THE DE FACTO STANDARD OF NETWORKING PROGRAMMING IS

10:44AM 9

ACTUALLY FALSE?

10:44AM 10

A. I AM NOT SURE WHAT THE AUTHOR OF THAT SLIDE MEANT BY DE

10:44AM 11

FACTO STANDARD.

10:44AM 12

Q. OKAY. THE AUTHOR IS SOMEONE WHO WORKED FOR CISCO, RIGHT?

10:44AM 13

A. THERE ARE MANY PEOPLE THAT WORK FOR CISCO AND THERE'S MANY

10:44AM 14

PEOPLE WITH OPINIONS, YES.

10:44AM 15

Q. THIS IS A SLIDE DECK FOR THE CISCO LIVE EVENT, RIGHT?

10:44AM 16

A. YES. I AGREE.

10:44AM 17

Q. WHAT IT SAYS IN THIS SLIDE DECK PRESENTED AT THE CISCO LIVE

10:44AM 18

EVENT IS THAT OVER THE YEARS, THE BASIC LOOK AND FEEL OF THE

10:44AM 19

COMMAND-LINE INTERFACE HAS BEEN MIMICKED BY OTHER

10:44AM 20

MANUFACTURERS TO THE POINT WHERE IT IS THE DE FACTO STANDARD

10:44AM 21

OF NETWORK PROGRAMMING, RIGHT?

10:44AM 22

A. THAT'S WHAT THAT SENTENCE SAYS.

10:44AM 23

MR. SILBERT: OKAY. YOUR HONOR, MAYBE WE COULD TAKE

10:45AM 24

A BREAK NOW.

10:45AM 25

THE COURT: ALL RIGHT. WE ARE GOING TO TAKE OUR

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

MORNING BREAK. LET'S COME BACK AT FIVE MINUTES TO 11.

(WHEREUPON A RECESS WAS TAKEN.)

THE COURT: MR. SILBERT BETTER, WOULD YOU LIKE TO CONTINUE, AND MR. LOUGHEED IS PRESENT AS WELL.

MR. SILBERT: MAY I PROCEED, YOUR HONOR?

THE COURT: YES, PLEASE.

MR. SILBERT: YOUR HONOR, WE EXCHANGED A COPY OF THE METADATA, I BELIEVE WE --

MR. PAK: WE WITHDRAW THE OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. EXHIBIT 8267 WILL BE ADMITTED.

(WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 8267, HAVING BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO EVIDENCE.)

MR. SILBERT:

Q. MR. LOUGHEED, THIS WAS AN E-MAIL THAT WAS SENT TO YOU ALONG WITH A NUMBER OF OTHER PEOPLE AT CISCO, RIGHT?

A. YES.

Q. I BELIEVE YOU SAID YOU KNOW THE PEOPLE ON THE -- WHOSE NAMES ARE ON THE E-MAIL?

A. YES, I DO.

Q. OKAY. IF YOU WOULD LOOK AT THE E-MAIL TOWARDS THE -- UNDERNEATH THAT HORIZONTAL LINE SENT BY PRAKASH BETTADAPUR, WHAT HE WRITES THERE IN THE TOP PARAGRAPH, THE COMMAND-LINE INTERFACE, CLI, HAS BEEN THE CORNER STONE OF CISCO DEVICES

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:58AM 1 MANAGEABILITY AND HAS BEEN THE DE FACTO STANDARD IN THE  
10:58AM 2 INDUSTRY.

10:58AM 3 DO YOU SEE THAT

10:58AM 4 THE COURT: I SEE THOSE WORDS.

10:58AM 5 Q. THAT WAS A TRUE STATEMENT, WASN'T IT?

10:58AM 6 A. I AGREE THE COMMAND-LINE INTERFACE HAS BEEN THE CORNER  
10:58AM 7 STONE OF CISCO DEVICE MANAGEABILITY. I DO NOT AGREE THAT IT  
10:58AM 8 HAS BEEN THE DE FACTO STANDARD IN THE INDUSTRY.

10:58AM 9 Q. YOU THINK MR. BETTADAPUR WHEN HE WROTE TO A GROUP OF PEOPLE  
10:58AM 10 AT CISCO THAT THE CLI HAS BEEN THE DE FACTO STANDARD, THE CISCO  
10:58AM 11 CLI HAS BEEN THE DE FACTO STANDARD IN THE INDUSTRY, YOU THINK  
10:58AM 12 HE'S SIMPLY -- WAS SIMPLY WRONG?

10:58AM 13 A. I THINK HE WAS VERY ENTHUSIASTIC AND I DON'T AGREE WITH  
10:58AM 14 THAT -- HIS ASSESSMENT.

10:59AM 15 Q. OKAY. WOULD YOU PLEASE LOOK AT, AGAIN, AT EXHIBIT 5031,  
10:59AM 16 WHICH IS IN EVIDENCE. THIS IS THE DEC MANUAL --

10:59AM 17 THE COURT: THIS WAS THE SEPARATE BINDER?

10:59AM 18 MR. SILBERT: YEAH. THANK YOU.

10:59AM 19 Q. THIS IS THE DEC ROUTER, DEC B ROUTER MANUAL THAT WAS  
10:59AM 20 PRODUCED TO US FROM YOUR FILES FROM 1993.

10:59AM 21 DO YOU RECALL WE TALKED ABOUT THIS EARLIER? WE LOOKED AT  
10:59AM 22 THE COMMAND ARP TIMEOUT, WHICH IS IN THIS DEC MANUAL, ALSO  
10:59AM 23 IN -- ALSO APPEARS IN CISCO CLI, AND YOU TESTIFIED THAT YOU  
10:59AM 24 BELIEVED THAT THAT WAS A COINCIDENCE, RIGHT?

10:59AM 25 A. YES.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

10:59AM 1 Q. CISCO ALSO USES THE CLI COMMAND, CLEAR IP BGP, CORRECT?

10:59AM 2 A. YES.

10:59AM 3 Q. AND CISCO TOLD US IN THIS CASE THAT THAT COMMAND WAS ADDED

11:00AM 4 TO THE CISCO CLI IN 1993. I WOULD LIKE YOU TO PLEASE LOOK AT

11:00AM 5 THE PAGE ENDING IN 233. AGAIN, I'M REFERRING TO THOSE NUMBERS

11:00AM 6 THAT LAWYERS ADD AT THE BOTTOM OF THE PAGE, THE BATES NUMBERS.

11:00AM 7 YOU SEE THERE THE COMMAND IN THE DEC MANUAL FOR MAY 1993,

11:00AM 8 YOU SEE THE COMMAND CLEAR IP BGP?

11:00AM 9 A. YES, I DO.

11:00AM 10 Q. AND THAT'S THE SAME COMMAND THAT CISCO USES IN ITS CLI,

11:00AM 11 RIGHT? THE SAME COMMAND THAT WAS IN THE DEC MANUAL THAT WAS IN

11:00AM 12 YOUR FILES, RIGHT?

11:00AM 13 A. IT APPEARS TO BE THE SAME COMMAND.

11:00AM 14 Q. DO YOU THINK THAT WAS A COINCIDENCE TOO?

11:00AM 15 A. I SUSPECT THEY HAD SEEN WHAT CISCO HAD DONE.

11:01AM 16 Q. YOU THINK THEY COPIED CISCO?

11:01AM 17 A. I CAN'T SAY THAT WITH CERTAINTY. CERTAINLY I WAS ONE OF

11:01AM 18 THE CO DESIGNERS OF THE BGP PROTOCOL AND I DID IMPLEMENT A

11:01AM 19 COMMAND-LINE INTERFACE THAT HAD FUNCTIONALITY LIKE THIS.

11:01AM 20 Q. CISCO USED THE COMMAND CLEAR IP BGP, RIGHT?

11:01AM 21 A. YES.

11:01AM 22 Q. AND THAT COMMAND, ACCORDING TO CISCO, IN THE INFORMATION

11:01AM 23 THEY GAVE US IN THIS LAWSUIT, WAS ADDED TO THE CISCO CLI IN

11:01AM 24 1993, RIGHT?

11:01AM 25 A. THERE WAS A -- SO YES, I SUSPECT THAT FORM OF THE COMMAND

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:01AM 1 WAS PROBABLY DONE AT THAT TIME.

11:01AM 2 Q. OKAY. AND THIS DEC ROUTER MANUAL DATED MAY 1993, WHICH WAS  
11:02AM 3 IN YOUR FILES AT CISCO, HAS THE COMMAND, CLEAR IP BGP, RIGHT?

11:02AM 4 A. YES.

11:02AM 5 Q. AND YOU ARE TELLING ME YOU THINK THAT'S A COINCIDENCE?

11:02AM 6 A. I REMEMBER IMPLEMENTING A COMMAND, CLEAR BGP. I KNOW I  
11:02AM 7 INVENTED SUCH A COMMAND EARLY ON BEFORE THIS TIMEFRAME BECAUSE  
11:02AM 8 I WAS THE AUTHOR OF THAT PROTOCOL AT CISCO. I WAS ALSO THE --  
11:02AM 9 THE CO-AUTHOR OF THE PROTOCOL SPECIFICATION. AND I CERTAIN  
11:02AM 10 NEEDED A WAY OF RESTARTING OR CLEARING BGP DATA.

11:02AM 11 SO PREFACING IT WITH AN IP COULD HAVE BEEN ADDED LATER ON.

11:02AM 12 Q. THAT'S JUST A LOGICAL THING TO DO, ONCE YOU HAVE CLEAR BGP,  
11:02AM 13 IT'S JUST LOGICAL TO ADD IP IF YOU WANT TO SPECIFY INTERNET  
11:02AM 14 PROTOCOL?

11:02AM 15 A. IT WOULD BE IN LINE WITH REGULARIZING THE COMMAND-LINE  
11:02AM 16 INTERFACE.

11:02AM 17 Q. OKAY. CISCO USES A COMMAND IN ITS CLI, DISTANCE BGP,  
11:03AM 18 RIGHT?

11:03AM 19 A. YES.

11:03AM 20 Q. OKAY. AND ACCORDING TO CISCO, THAT COMMAND WAS ADDED TO  
11:03AM 21 THE CISCO CLI IN 1993. COULD YOU PLEASE LOOK ONE PAGE EARLIER  
11:03AM 22 IN EXHIBIT 5031, THE PAGE ENDING IN 232. YOU SEE THE COMMAND  
11:03AM 23 THERE IN THE DEC MANUAL THAT WAS IN YOUR FILES, DISTANCE BGP?

11:03AM 24 A. YES.

11:03AM 25 Q. THAT'S THE SAME COMMAND CISCO ADDED IN 1993?

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:03AM 1 A. CISCO ADDED -- SO I SUSPECT THE DATES IN THE CISCO STUFF,  
11:03AM 2 THE EARLIEST THEY WERE ABLE TO FIND RECORDS OF THOSE COMMANDS.

11:03AM 3 I HAD ADDED A DISTANCE COMMAND IN -- MUCH EARLIER THAN THAT.

11:03AM 4 Q. YOU THINK THE DIGITAL EQUIPMENT CORPORATION COPEDED CISCO  
11:03AM 5 CLI?

11:04AM 6 A. I -- IT CERTAINLY LOOKS LIKE THEY USED THE SAME TERMINOLOGY  
11:04AM 7 THAT I USED WHEN I CREATED THE DISTANCE COMMAND.

11:04AM 8 Q. CISCO USES THE COMMAND IP DOMAIN LOOKUP, RIGHT?

11:04AM 9 A. YES.

11:04AM 10 Q. AND ACCORDING TO CISCO THAT WAS ADDED TO THE CLI IN 1993.  
11:04AM 11 COULD YOU PLEASE LOOK AT PAGE 156 OF EXHIBIT 5031. DO YOU SEE  
11:04AM 12 THERE THE COMMAND IP DOMAIN LOOKUP IN THE DEC MANUAL THAT WAS  
11:04AM 13 IN YOUR FILES?

11:04AM 14 A. I SEE WHAT YOU'VE HIGHLIGHTED, YES.

11:04AM 15 Q. DO YOU THINK THAT WAS A COINCIDENCE?

11:04AM 16 A. I THINK THEY HAD SEEN WHAT CISCO HAD DONE AND --

11:05AM 17 Q. YOU ARE SPECULATING, RIGHT?

11:05AM 18 A. I'M SPECULATING. I'M SPECULATING. AS I'VE SAID, I HAVE  
11:05AM 19 NOT SEEN THIS MANUAL BEFORE. I HAVE NO MEMORY OF SEEING THE  
11:05AM 20 MANUAL BEFORE.

11:05AM 21 Q. OKAY. IF YOU STILL LOOK AT THAT SAME PAGE, YOU SEE THE  
11:05AM 22 COMMAND IP DOMAIN NAME UP THERE. A FEW LINES UP?

11:05AM 23 A. YEP.

11:05AM 24 Q. THAT'S ANOTHER COMMAND THAT CISCO USES, RIGHT?

11:05AM 25 A. YES.

CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:05AM 1 Q. DO YOU HAVE ANY EXPLANATION FOR HOW IP DOMAIN NAME APPEARS  
11:05AM 2 IN THE DEC MANUAL THAT WAS IN YOUR FILES AND ALSO APPEARS IN  
11:05AM 3 THE CISCO CLI?  
11:05AM 4 A. NO, I DON'T.  
11:05AM 5 Q. CISCO USES A COMMAND, SHOW IP BGP, RIGHT?  
11:05AM 6 A. WHO DOES?  
11:05AM 7 Q. CISCO.  
11:05AM 8 A. YES.  
11:05AM 9 Q. WOULD YOU PLEASE LOOK AT THE PAGE ENDING IN 290 OF  
11:06AM 10 EXHIBIT 5031. YOU SEE THE COMMAND THERE SHOW IP BGP?  
11:06AM 11 A. I SEE THAT.  
11:06AM 12 Q. YOU HAVE NO EXPLANATION, DO YOU, FOR HOW THE COMMAND SHOW  
11:06AM 13 IP BGP APPEARS BOTH IN CISCO'S CLI AND IN THE DEC MANUAL DATED  
11:06AM 14 MAY 1993 THAT WAS IN YOUR FILES?  
11:06AM 15 A. NO, I DON'T. I WAS -- AS I'VE INDICATED, I'M THE ONE OF  
11:06AM 16 THE DESIGNERS OF BGP, AND MY CO-AUTHOR AND I CAME UP WITH THE  
11:06AM 17 BGP IMPLEMENT, SEPARATE BGP IMPLEMENTATIONS, ONE DONE AT IBM,  
11:06AM 18 ONE DONE AT CISCO, DONE IN 1989.  
11:06AM 19 Q. RIGHT. AND BGP IS THE BORDER GATEWAY PROTOCOL, IT'S A  
11:06AM 20 NETWORKING STANDARD PROTOCOL, RIGHT?  
11:06AM 21 A. IT IS NOW, YES.  
11:06AM 22 Q. EVERYBODY CALLS IT BGP, RIGHT?  
11:07AM 23 A. OR GATEWAY, YES.  
11:07AM 24 Q. AND THE COMMAND, THIS SPECIFIC CLI COMMAND, SHOW IP BGP,  
11:07AM 25 THAT CLI COMMAND IS USED IN CISCO'S CLI, RIGHT?

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:07AM 1 A. YES, IT IS.

11:07AM 2 Q. AND ACCORDING TO CISCO, IN THIS LAWSUIT IT WAS ADDED TO

11:07AM 3 CISCO CLI IN 1993?

11:07AM 4 A. I THINK IT WAS EARLIEST DOCUMENTED IS WHAT -- IS PROBABLY

11:07AM 5 THE CAVEAT THAT GOES WITH THAT. BECAUSE I KNOW THIS WAS --

11:07AM 6 THIS WORK WAS DONE EARLIER.

11:07AM 7 Q. DO YOU HAVE ANY EXPLANATION FOR HOW THE SAME COMMAND, SHOW

11:07AM 8 IP BGP APPEARS IN THE DEC, DIGITAL EQUIPMENT CORPORATION,

11:07AM 9 ROUTER MANUAL DATED MAY 1993 THAT CAME FROM YOUR FILES?

11:07AM 10 A. NO, I DON'T.

11:07AM 11 MR. SILBERT: OKAY. THANK YOU, SIR. I HAVE NO

11:07AM 12 FURTHER QUESTIONS.

11:07AM 13 THE COURT: THANK YOU.

11:08AM 14 MR. PAK, REDIRECT?

11:08AM 15 MR. PAK: YES.

11:08AM 16

11:08AM 17 **REDIRECT EXAMINATION BY MR. PAK**

11:08AM 18

11:08AM 19 BY MR. PAK:

11:08AM 20 Q. GOOD MORNING, MR. LOUGHEED.

11:08AM 21 A. GOOD MORNING.

11:08AM 22 Q. WE ARE GOING TO GO THROUGH SOME OF THE TOPICS THAT WERE

11:08AM 23 COVERED WITH YOU BY ARISTA'S COUNSEL.

11:08AM 24 A. YES.

11:08AM 25 Q. SO FIRST OF ALL, IT'S TALK ABOUT THIS DEC SYSTEM 20 THAT



REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:08AM 1 WAS THE SUBJECT OF MANY QUESTIONS FROM MR. SILBERT.

11:08AM 2 IF I CAN HAVE, I THINK IT WAS SLIDE NUMBER TWO.

11:08AM 3 IF WE COULD HAVE THAT ON THE SCREEN.

11:08AM 4 NOW JUST TO REMIND THE JURY HERE, WHAT TYPE OF SYSTEM WAS

11:08AM 5 THE DEC SYSTEMS 20 BACK IN THE EARLY 1980S?

11:09AM 6 A. IT WAS A MAIN FRAME SYSTEM THAT PROVIDED GENERAL COMPUTING

11:09AM 7 SUPPORT. STANFORD USED IT FOR THEIR FACULTY STAFF AND

11:09AM 8 COMPUTING NEEDS.

11:09AM 9 Q. WAS THAT AN IP ROUTER?

11:09AM 10 A. NO.

11:09AM 11 Q. AND SO WHEN MR. SILBERT WAS ASKING YOU ALL THESE QUESTIONS

11:09AM 12 ABOUT SOME OF THE MANUALS AND SO FURTHER WITH RESPECT TO THE

11:09AM 13 DEC SYSTEMS 20, THAT SYSTEM MANUAL WAS NOT DESCRIBING AN IP

11:09AM 14 ROUTER; IS THAT CORRECT?

11:09AM 15 A. THAT'S CORRECT.

11:09AM 16 Q. AND SIR, DID YOU TRY TO SLAVISHLY COPY THE USER INTERFACE

11:09AM 17 OF THE DEC SYSTEMS 20 IN ORDER TO BUILD YOUR IP ROUTER?

11:09AM 18 A. NO.

11:09AM 19 Q. AND WHY NOT?

11:09AM 20 A. IT WOULDN'T HAVE BEEN HELPFUL. I HAD A NEW PROBLEM TO

11:09AM 21 SOLVE, AND I WAS NOT PARTICULARLY CONSTRAINED BY WHAT CHOICE OF

11:09AM 22 COMMANDS OR EXPRESSIONS OR HOW I DID THINGS. IT WAS A NEW

11:10AM 23 PRODUCT, A NEW MARKETPLACE, AND THE CUSTOMERS WE WERE AIMING

11:10AM 24 HAD, MOST HAD NEVER SEEN AN IP ROUTER BEFORE, PRACTICALLY ALL

11:10AM 25 OF THEM HAD NOT SEEN AN IP ROUTER BEFORE 86.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:10AM 1 Q. WHAT WOULD HAVE HAPPENED TO YOUR CUSTOMERS IF YOU HAD A  
11:10AM 2 MAIN FRAME USER INTERFACE RUNNING ON AN IP ROUTER AT THE TIME?

11:10AM 3 A. THEY WOULD HAVE THOUGHT THAT WAS INCREDIBLY STRANGE.

11:10AM 4 Q. AND JUST TO BE CLEAR --

11:10AM 5 A. AND UN HELPFUL.

11:10AM 6 Q. AT THE TIME THAT YOU WERE IN THIS MARKETPLACE IN 1986, WAS  
11:10AM 7 DEC MAKING ANY IP ROUTERS TO COMPETE AGAINST WHAT YOU WERE  
11:10AM 8 DOING?

11:10AM 9 A. NO.

11:10AM 10 Q. NOW I WANT TO -- AND BY THE WAY, THERE WERE A NUMBER OF  
11:10AM 11 QUESTIONS ABOUT DEC AGAIN. TO YOUR KNOWLEDGE, HAS DEC EVER  
11:10AM 12 COMPLAINED TO CISCO ABOUT THE USAGE OF ANY PARTICULAR COMMAND?

11:10AM 13 A. NO, THEY HAVEN'T.

11:10AM 14 Q. OKAY. AND LET'S LOOK AT THE TOPS 20 COMMAND REFERENCE  
11:10AM 15 MANUAL. THIS IS 6965. AND LET'S TURN TO PAGE LITTLE THREE --

11:11AM 16 A. HOLD ON. 6965. YES. WHICH PAGE?

11:11AM 17 Q. SO THE LITTLE THREE. IT'S GOT ON THE BOTTOM SIDE THERE'S  
11:11AM 18 GOING TO BE THE LETTERS THAT END IN 300. AND IT'S THE  
11:11AM 19 CONTENTS, THE TABLE OF CONTENTS, DO YOU SEE THAT?

11:11AM 20 A. YES, I CAN SEE THAT.

11:11AM 21 Q. MR. FISHER, IF WE CAN GO TO THAT SLIDE.

11:11AM 22 SO WHAT THIS IS, IS A MANUAL FOR THAT BIG MAIN FRAME WE SAW  
11:11AM 23 AND THIS IS LISTING OUT THE COMMANDS; IS THAT RIGHT?

11:11AM 24 A. YES.

11:11AM 25 Q. AND DO YOU SEE THE COMMAND DESCRIPTIONS. CAN YOU GO

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:11AM 1 THROUGH AND LOOK AT ALL THE COMMANDS THAT ARE HERE, AND ARE  
11:11AM 2 THESE SINGLE WORD COMMANDS OR MULTIWORD COMMANDS THAT ARE  
11:11AM 3 DESCRIBED HERE?

11:11AM 4 A. THESE APPEAR TO BE, FOR THE MOST PART, SINGLE WORD  
11:12AM 5 COMMANDS.

11:12AM 6 Q. OKAY. AND DO YOU KNOW, AND JUST TO EXPLAIN TO THE JURY,  
11:12AM 7 WHAT IS THE DIFFERENCE BETWEEN A COMMAND NAME AND A COMMAND  
11:12AM 8 ARGUMENT?

11:12AM 9 A. THE COMMAND NAME IS SORT OF THE BEGINNING SET OF WORDS,  
11:12AM 10 WORDS THAT USE THE COMMAND, THAT BASICALLY DEFINE THE COMMAND.  
11:12AM 11 AND THEN THERE ARE OTHER THINGS THAT ARE ARGUMENTS OR  
11:12AM 12 PARAMETERS THAT THE USER WILL TYPE. THERE MAY OCCASIONALLY BE  
11:12AM 13 OTHER WORDS THAT THE SYSTEM WILL SUPPLY, BUT THERE'S GENERALLY  
11:12AM 14 OTHER WORDS THAT ARE TYPED IN BY THE USER.

11:12AM 15 Q. AND MR. FISHER, IF WE COULD BRING UP THE STANFORD  
11:12AM 16 DEMONSTRATION THAT WE DID IN MR. LOUGHEED'S DIRECT EXAMINATION.

11:12AM 17 DO YOU RECALL DESCRIBING TO THE JURY THE USER INTERFACE  
11:13AM 18 THAT EXISTED AT STANFORD?

11:13AM 19 A. YES, I DO.

11:13AM 20 Q. WE DO SEE MULTIPLE WORDS HERE, INTERFACE, ETHERNET 0,  
11:13AM 21 ADDRESS AND SO ON, DO YOU SEE THAT?

11:13AM 22 A. YES.

11:13AM 23 Q. I BELIEVE YOUR TESTIMONY WAS THAT THIS WAS A SINGLE WORD  
11:13AM 24 COMMAND, DO YOU RECALL THAT?

11:13AM 25 A. YES. IT'S WHAT WE CALL THE INTERFACE COMMAND.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:13AM 1 Q. WHY WAS THAT A SINGLE WORD COMMAND?

11:13AM 2 A. BECAUSE THAT'S HOW WE DOCUMENTED IT, THAT'S HOW WE REFERRED  
11:13AM 3 TO IT, THAT'S -- THERE WAS JUST ONE COMMAND AND IT HAD MULTIPLE  
11:13AM 4 ARGUMENTS AFTERWARDS.

11:13AM 5 Q. SO WHAT WOULD BE THE COMMAND NAME OR THE COMMAND WORD HERE  
11:13AM 6 FOR THIS PARTICULAR COMMAND?

11:13AM 7 A. INTERFACE.

11:13AM 8 Q. AND THEN THESE OTHER WORDS LIKE ETHERNET 0, ADDRESS AND SO  
11:13AM 9 ON, WHAT TYPES OF INFORMATION WOULD THAT BE?

11:13AM 10 A. THOSE ARE WHAT WE CALL ARGUMENTS TO THE COMMAND. THAT'S  
11:13AM 11 ETHERNET 0 WOULD BE OKAY, WHAT TYPE OF INTERFACE ARE WE TALKING  
11:13AM 12 ABOUT? AND THEN YOU WOULD TYPE ADDRESS TO SAY YOU ARE WORKING  
11:13AM 13 ON THE ADDRESS OF THE INTERFACE, WHICH WAS AN IP ADDRESS IN  
11:13AM 14 THIS CASE.

11:13AM 15 Q. AND THEN YOU RECALL THAT THERE WAS A LOT OF TESTIMONY YOU  
11:13AM 16 GAVE ON DIRECT ABOUT HOW THAT INTERFACE WAS THEN CHANGED TO THE  
11:14AM 17 ONE THAT YOU ADOPTED AT CISCO, DO YOU RECALL THAT?

11:14AM 18 A. YES.

11:14AM 19 Q. FAST FORWARD TO THAT. AND SO AT THE BOTTOM OF SLIDE 21,  
11:14AM 20 YOU WERE DESCRIBING THE CISCO INTERFACE IN BLUE, IS THAT TRUE?

11:14AM 21 A. THAT'S CORRECT.

11:14AM 22 Q. AND IF YOU LOOK AT, FOR EXAMPLE, ONE OF THE COMMANDS AT  
11:14AM 23 ISSUE IN THIS CASE, IP ADDRESS, AND THERE'S A SERIES OF WORDS,  
11:14AM 24 IS THAT A SINGLE WORD COMMAND OR IS THAT A MULTIWORD COMMAND?

11:14AM 25 A. THAT'S A MULTIWORD COMMAND.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:14AM 1 Q. WHY IS THAT A MULTIWORD COMMAND?

11:14AM 2 A. BECAUSE YOU REFER TO IT BY THE FIRST TWO FIXED KEY WORDS,  
11:14AM 3 IP ADDRESS.

11:14AM 4 Q. AND SO I WANT TO FLIP TO NOW, WITH THAT UNDERSTANDING, THE  
11:14AM 5 TERMINAL COMMAND THAT MR. SILBERT ASKED YOU ABOUT. DO YOU  
11:14AM 6 RECALL THAT COMMAND?

11:14AM 7 A. YES.

11:14AM 8 Q. SO IF YOU GO TO PAGE 366, MR. FISHER. IF YOU COULD BLOW UP  
11:14AM 9 366 IN THE DOCUMENTS, THAT'S 386-84 IN THE BATES LABEL.  
11:15AM 10 WONDERFUL. YEP. THAT'S IT.

11:15AM 11 SO FIRST OF ALL, BLOW UP, AND I'M GOING TO HAVE YOU READ  
11:15AM 12 INTO THE RECORD, THE DESCRIPTION OF THE ACTUAL TERMINAL COMMAND  
11:15AM 13 THAT MR. SILBERT WAS ASKING YOU ABOUT.

11:15AM 14 CAN YOU READ THE FIRST PART AT THE TOP.

11:15AM 15 A. SETS THE CHARACTERISTICS OF YOUR TERMINAL. FORMAT OF THE  
11:15AM 16 COMMAND IS THE AT SIGN WHICH IS THE PROMPT, FOR TOPS 20 CLI,  
11:15AM 17 TERMINAL, THE WORD TERMINAL, AND THEN TOPS 20 HAS THE IDEA OF  
11:15AM 18 GUIDE WORDS THAT ARE NOT REALLY PART OF THE COMMAND, THEY ARE  
11:15AM 19 JUST SORT OF LIKE, THEY ARE LIKE HELP DESCRIPTIONS THAT TOPS 20  
11:16AM 20 WOULD PROVIDE. YOU WOULD TYPE TERMINAL, IT FILLS IT OUT, THESE  
11:16AM 21 GUIDE WORDS. THEN THERE'S ARGUMENT. AND IT GOES ON TO SAY,  
11:16AM 22 WHERE ARGUMENT IS A KEY WORD CHOSEN FROM THE LIST BELOW  
11:16AM 23 REPRESENTING YOUR CHOICE --

11:16AM 24 THE COURT: HOLD ON PLEASE FOR THE COURT REPORTER.

11:16AM 25 THE WITNESS: I'M SORRY.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:16AM 1 WHERE ARGUMENT IS A KEY WORD CHOSEN FROM THE LIST BELOW  
11:16AM 2 REPRESENTING YOUR CHOICE OF TERMINAL COMMAND OPTIONS, SOME  
11:16AM 3 ARGUMENTS FURTHER REQUIRE A DECIMAL NUMBER TO COMPLETE THEIR  
11:16AM 4 MEANING.

11:16AM 5 BY MR. PAK:

11:16AM 6 Q. OKAY. SO LET'S JUST STOP THERE. IS THIS A SINGLE WORD  
11:16AM 7 COMMAND OR A MULTIWORD COMMAND, GIVEN THE DESCRIPTION?

11:16AM 8 A. BY THIS DESCRIPTION IT'S A SINGLE WORD COMMAND.

11:16AM 9 Q. AND SO LENGTH THERE, THAT MR. SILBERT WAS ASKING YOU ABOUT,  
11:16AM 10 WAS AN ARGUMENT THAT THE USER WOULD TYPE IN, IS THAT TRUE?

11:16AM 11 MR. SILBERT: OBJECTION. LEADING.

11:16AM 12 MR. PAK: LET ME ASK IT THIS WAY, YOUR HONOR.

11:16AM 13 Q. WHAT TYPE OF INFORMATION IS LENGTH, ACCORDING TO THE DEC  
11:16AM 14 MANUAL?

11:16AM 15 A. THAT'S AN ARGUMENT.

11:17AM 16 Q. SO WE CAN SET THE DEC MANUAL ASIDE.

11:17AM 17 NOW, GOING TO THE RELATIONSHIP WITH DEC, AGAIN, THROUGHOUT  
11:17AM 18 YOUR CAREER AT CISCO, HAVE YOU HAD INTERACTIONS WITH DEC IN A  
11:17AM 19 PROFESSIONAL CAPACITY?

11:17AM 20 A. NOT DETAILED INTERACTIONS.

11:17AM 21 Q. OKAY. AND ARE YOU AWARE OF ANY SITUATIONS IN WHICH DEC HAD  
11:17AM 22 APPROACHED CISCO TO TALK ABOUT A LICENSE OR TO TALK ABOUT ANY  
11:17AM 23 KINDS OF ISSUES RELATING TO THE USE OF ANY OF THEIR COMMANDS?

11:17AM 24 MR. SILBERT: OBJECTION. LACKS FOUNDATION.

11:17AM 25 MR. PAK: TO YOUR KNOWLEDGE.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:17AM 1 THE COURT: OVERRULED.

11:17AM 2 THE WITNESS: THE ONLY INSTANCE THAT I AM PERSONALLY  
11:17AM 3 AWARE OF IS THAT WE LICENSE THE LOCAL AREA TERMINAL PROTOCOL,  
11:18AM 4 CALLED LAC, FROM DEC.

11:18AM 5 Q. AND THEREFORE IN THAT PARTICULAR INSTANCE, CISCO PAID MONEY  
11:18AM 6 TO DEC FOR THAT PARTICULAR PROTOCOL AND YOU LICENSED THAT  
11:18AM 7 TECHNOLOGY, IS THAT TRUE?

11:18AM 8 A. I THINK WE HAD A LICENSE FROM DEC. WE ALSO LICENSED  
11:18AM 9 SUPPORTING CODE FROM A COMPANY CALLED, I THINK IT WAS CALLED  
11:18AM 10 MERIDIAN, SOMETHING OR OTHER.

11:18AM 11 Q. AND TO YOUR KNOWLEDGE HAS CISCO EVER COMPLAINED ABOUT THE  
11:18AM 12 USE OF A SINGLE WORD COMMAND TERMINAL?

11:18AM 13 THE COURT: I'M SORRY, WOULD YOU RESTATE THAT.

11:18AM 14 Q. SURE. TO YOUR KNOWLEDGE HAS DEC EVER COMPLAINED TO CISCO  
11:18AM 15 ABOUT THE USE OF A SINGLE WORD COMMAND TERMINAL?

11:18AM 16 A. NOT DEC AND TO MY KNOWLEDGE NOT DEC AND NOT ANY OF THE  
11:18AM 17 SUCCESSOR COMPANIES EVER.

11:18AM 18 Q. NOW I WANT TO NOW GO TO ANOTHER TOPIC, MR. LOUGHEED, WHICH  
11:18AM 19 WAS THE, I THINK THERE WERE A NUMBER OF QUESTIONS ABOUT IP AND  
11:18AM 20 SOME OF THE OTHER INTERNET PROTOCOL DOCUMENTS, DO YOU RECALL  
11:18AM 21 THAT? SO THIS IS A BIG FILE, BUT IF YOU TURN TO 69, I BELIEVE  
11:19AM 22 IT WAS 6944, IN YOUR BINDER.

11:19AM 23 A. YES.

11:19AM 24 Q. OKAY. YOU CAN SEE THE TITLE OF THIS DOCUMENT AT THE VERY  
11:19AM 25 BEGINNING IS INTERNET PROTOCOL, CORRECT?

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:19AM 1 A. CORRECT.

11:19AM 2 Q. NOW YOU DIDN'T USE THE WORD INTERNET PROTOCOL TO TALK ABOUT

11:19AM 3 THE INTERNET IN YOUR COMMANDS, IS THAT TRUE?

11:19AM 4 A. THAT'S CORRECT.

11:19AM 5 Q. OKAY. SO LET'S TURN TO A FEW MORE OF THESE. IF YOU TURN

11:19AM 6 TO, WE WILL JUST GO IN ORDER, PAGE 7 OF THE DOCUMENT WHICH IS

11:19AM 7 31563. AND IF YOU BLOW UP UNDER ADDRESSING, MR. SILBERT ASKED

11:19AM 8 YOU ABOUT THE WORD ADDRESS IN THAT PARTICULAR SECTION, DO YOU

11:20AM 9 RECALL THAT?

11:20AM 10 A. I RECALL THAT.

11:20AM 11 Q. BUT HE DIDN'T ASK YOU ABOUT FOUR OCTETS, DO YOU SEE THAT?

11:20AM 12 MAYBE WE CAN HIGHLIGHT THAT FOR THE JURY. IT SAYS ADDRESSES

11:20AM 13 ARE FIXED LENGTH OF FOUR OCTETS. DO YOU SEE THAT?

11:20AM 14 A. YES.

11:20AM 15 Q. WHAT ARE OCTETS, CAN YOU EXPLAIN THAT?

11:20AM 16 A. THAT'S A NETWORKING JARGON THAT REFERS TO BYTES WHICH ARE

11:20AM 17 EIGHT BITS OF INFORMATION.

11:20AM 18 Q. AND IS THAT A WELL KNOWN TERM, FOUR OCTETS?

11:20AM 19 A. ONLY WITHIN THE NETWORKING INDUSTRY.

11:20AM 20 Q. OKAY. I DON'T KNOW IT, BUT I'M SURE YOU DID KNOW IT. NOW,

11:20AM 21 COULD YOU HAVE USED THE WORD FOUR OCTETS TO TALK ABOUT THE

11:20AM 22 ADDRESS, BUT YOU DIDN'T DO THAT, DID YOU?

11:20AM 23 A. NO, I DID NOT DO THAT.

11:20AM 24 Q. LET'S GO TO THE NEXT SENTENCE IN THAT SAME DOCUMENT, LOCAL

11:20AM 25 ADDRESS, DO YOU SEE THAT?



REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:20AM 1 A. YES.

11:20AM 2 Q. SO AGAIN THIS IS THE SAME DOCUMENT MR. SILBERT WAS ASKING

11:20AM 3 YOU ABOUT, IT SAYS LOCAL ADDRESS, DO YOU SEE THAT?

11:20AM 4 A. YES.

11:20AM 5 Q. DID YOU USE LOCAL ADDRESS TO DEFINE THE INTERNET PROTOCOL

11:20AM 6 WHEN YOU WERE COMING UP WITH YOUR COMMANDS?

11:21AM 7 A. NO.

11:21AM 8 Q. OKAY. AND LOCAL -- AND IF YOU GO DOWN A LITTLE BIT FURTHER

11:21AM 9 THERE'S ANOTHER PARAGRAPH, CARE MUST BE TAKEN IN MAPPING

11:21AM 10 INTERNET ADDRESSES TO LOCAL NET ADDRESSES, DO YOU SEE THAT?

11:21AM 11 A. YES.

11:21AM 12 Q. AND AGAIN, DID YOU USE THE PHRASE LOCAL NET ADDRESSES WHEN

11:21AM 13 COMING UP WITH YOUR IP RELATED ADDRESS COMMANDS?

11:21AM 14 A. NO.

11:21AM 15 Q. LET'S LOOK AT SOME MORE. SO THIS IS ON 31567, WHICH IS

11:21AM 16 PAGE 11. DO YOU SEE THAT THIS IS AN EXAMPLE OF AN INTERNET

11:21AM 17 DATA GRAM HEADER?

11:21AM 18 A. YES, I DO.

11:21AM 19 Q. AND YOU EXPLAIN TO THE JURY WHAT THAT MEANS, WHAT IS AN

11:21AM 20 INTERNET DATA GRAM HEADER THAT'S AT THE BOTTOM?

11:21AM 21 A. SO WHEN YOU ARE SENDING DATA USING THE INTERNET PROTOCOL,

11:22AM 22 THERE'S INFORMATION, I REFER TO LIKE THE ADDRESS ON AN ENVELOPE

11:22AM 23 OR SOMETHING LIKE THAT. THIS IS SORT OF THE FORMAL HEADER ON

11:22AM 24 THE ENVELOPE, IF YOU WILL, SORT OF THE LEADING PIECE OF

11:22AM 25 INFORMATION THAT AN IP ROUTER WOULD ACTUALLY LOOK IN TO MAKE

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:22AM 1 FORWARDING DECISIONS.

11:22AM 2 Q. AND LET'S SEE HOW THIS INDUSTRY DOCUMENT TALKED ABOUT THE  
11:22AM 3 ADDRESSES THAT ARE USED IN THIS INTERNET DATA GRAM HEADER.

11:22AM 4 MR. FISHER, CAN YOU HIGHLIGHT SOURCE ADDRESS, THEN CAN YOU  
11:22AM 5 ALSO HIGHLIGHT DESTINATION ADDRESS.

11:22AM 6 AGAIN, MR. LOUGHEED, DID YOU USE THE PHRASES, SOURCE  
11:22AM 7 ADDRESS AND DESTINATION ADDRESS WHEN YOU WERE COMING UP WITH  
11:22AM 8 THE IP ADDRESS COMMANDS

11:22AM 9 A. NO.

11:22AM 10 Q. OKAY. LET'S GO THROUGH SOME MORE EXAMPLES. THIS IS  
11:22AM 11 PAGE 23. AND THIS IS 31579. AND IF YOU ZERO IN ON INTERNET  
11:23AM 12 HEADER, IN THE MIDDLE OF PAGE 23, AND AGAIN, SIR, DID YOU USE  
11:23AM 13 THE PHRASE INTERNET HEADER OR INTERNET HEADER PADDING IN COME  
11:23AM 14 OF YOUR COMMANDS RELATED TO IP ADDRESSING?

11:23AM 15 A. NO.

11:23AM 16 Q. ONE LAST EXAMPLE FROM THIS DOCUMENT. LET'S LOOK AT  
11:23AM 17 PAGE 32, WHICH IS 31588.

11:23AM 18 IF YOU COULD BLOW UP THE MIDDLE SECTION THERE, MR. FISHER.

11:23AM 19 CAN YOU -- DO YOU SEE THAT IT SAYS SRC, EQUALS SOURCE  
11:23AM 20 ADDRESS. DST, EQUALS DESTINATION ADDRESS. DO YOU SEE THAT?

11:23AM 21 A. YES.

11:23AM 22 Q. AND AGAIN, YOU DIDN'T USE THE ACRONYMS SRC, OR DST, EVEN  
11:24AM 23 THOUGH THEY ARE DESCRIBED IN THIS DOCUMENT WHEN YOU WERE COMING  
11:24AM 24 UP WITH THE IP ADDRESS RELATED COMMANDS, CORRECT?

11:24AM 25 MR. SILBERT: OBJECT TO THE LEADING, YOUR HONOR.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:24AM 1 MR. PAK: LET ME ASK IT THIS WAY.

11:24AM 2 Q. YOU DIDN'T USE SRC, AND DST WHEN COMING UP WITH THE IP  
11:24AM 3 ADDRESS COMMANDS?

11:24AM 4 A. NO, I DID NOT.

11:24AM 5 Q. STEP BACK ONE PAGE, MR. FISHER. IF YOU CAN BLOW UP THE  
11:24AM 6 SECTION THAT SAYS 3.3, INTERFACES.

11:24AM 7 I WANT YOU TO READ INTO THE RECORD, MR. LOUGHEED, WHAT THE  
11:24AM 8 ACTUAL DOCUMENT SAYS ABOUT INTERFACE AND USER INTERFACES.

11:24AM 9 A. YES. THE FUNCTIONAL DESCRIPTION OF USER INTERFACES TO IP  
11:24AM 10 IS, AT BEST, FICTIONAL, SINCE EVERY OPERATING SYSTEM WILL HAVE  
11:24AM 11 DIFFERENT FACILITIES.

11:24AM 12 CONSEQUENTLY, WE MUST WARN READERS THAT DIFFERENT IP  
11:25AM 13 IMPLEMENTATIONS MAY HAVE DIFFERENT USER INTERFACES. HOWEVER,  
11:25AM 14 ALL IP'S MUST PROVIDE A CERTAIN MINIMUM SET OF SERVICES TO  
11:25AM 15 GUARANTEE THAT ALL IP IMPLEMENTATIONS CAN SUPPORT THE SAME  
11:25AM 16 PROTOCOL HIERARCHY. THIS SECTION SPECIFIES THE FUNCTIONAL  
11:25AM 17 INTERFACES REQUIRED OF ALL IP IMPLEMENTATIONS.

11:25AM 18 Q. AND LET'S PAUSE YOU THERE. AND AGAIN, FOR THE JURY THIS IS  
11:25AM 19 PAGE 31 OF 6944; IS THAT CORRECT?

11:25AM 20 A. YES.

11:25AM 21 Q. OKAY. SO CAN YOU DESCRIBE FOR THE JURY WHAT THE DIFFERENCE  
11:25AM 22 IS BETWEEN USER INTERFACES AND FUNCTIONAL INTERFACES?

11:25AM 23 A. SO THE FUNCTIONAL INTERFACE THAT IP, AS DEFINED BY THE  
11:25AM 24 STANDARDS IS, YOU NEED TO EXCHANGE DATA GRAMS THAT HAVE THIS  
11:26AM 25 PARTICULAR FORMAT, THE DATA IS ARRANGED IN A PARTICULAR WAY,

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:26AM 1 AND IF DATA IS RECEIVED WITH PARTICULAR SET, A VALUE SET, THAT  
11:26AM 2 THE SYSTEM SHOULD REACT ACCORDING TO WHAT THE PROTOCOL SAYS,  
11:26AM 3 WHAT THE STANDARD SAYS.

11:26AM 4 WHEN IT COMES TO USER INTERFACES, THEY ARE SILENT ON HOW TO  
11:26AM 5 DO USER INTERFACES, THAT IS UP TO EACH, EACH COMPANY OR EACH  
11:26AM 6 PERSON THAT IMPLEMENTS THOSE FUNCTIONAL REQUIREMENTS.

11:26AM 7 ONE WAY IS YOU COULD DO A COMMAND-LINE INTERFACE TO GO AND  
11:26AM 8 DO THIS STUFF, YOU COULD HAVE A GUI THAT MONITORS AND  
11:26AM 9 CONFIGURES THE FUNCTIONAL STUFF. OR YOU COULD, YOU KNOW, HAVE,  
11:26AM 10 AS I DESCRIBED, A MENU-BASED SYSTEM THAT WOULD DO IT.

11:26AM 11 AND THE DOCUMENTS, THE INTERNET PROTOCOL SPECIFICATION IS  
11:27AM 12 SILENT ON ACTUALLY HOW THE USER INTERFACE LOOKS. THAT'S UP TO  
11:27AM 13 THE PEOPLE THAT MANUFACTURE THE STUFF.

11:27AM 14 Q. YOU HAVE BEEN IN THE INDUSTRY FOR 30 YEARS PLUS, CORRECT?

11:27AM 15 A. YES.

11:27AM 16 Q. YOU MENTION THAT YOU ALSO WERE PART OF THE BEGINNINGS OF  
11:27AM 17 THE BGP PROTOCOL THAT WAS RATIFIED BY THE INDUSTRY STANDARD  
11:27AM 18 ORGANIZATIONS, CORRECT?

11:27AM 19 A. YES.

11:27AM 20 Q. NOW IN ALL OF YOUR EXPERIENCE, ARE YOU AWARE OF ANY  
11:27AM 21 INDUSTRY STANDARDS ORGANIZATION THAT HAS RATIFIED A STANDARD OR  
11:27AM 22 AN INDUSTRY STANDARD FOR A COMMAND-LINE INTERFACE FOR  
11:27AM 23 NETWORKING EQUIPMENT?

11:27AM 24 A. THERE IS NO SUCH THING.

11:27AM 25 Q. AND AGAIN, MR. SILBERT ASKED YOU SOME QUESTIONS OF SOME

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:27AM 1 DOCUMENTS WHERE PHRASES LIKE INDUSTRY STANDARD AND DE FACTO

11:27AM 2 STANDARD WERE USED, DO YOU RECALL THAT?

11:27AM 3 A. I RECALL THAT.

11:27AM 4 Q. BUT THOSE WERE NOT YOUR WORDS, CORRECT?

11:27AM 5 A. THOSE ARE NOT MY WORDS.

11:27AM 6 Q. AND SITTING HERE TODAY, YOU DON'T KNOW WHAT THE AUTHORS OF  
11:27AM 7 THOSE WORDS MEANT WHEN THEY USED THEM IN THAT CONTENT?

11:27AM 8 MR. SILBERT: OBJECTION TO THE LEADING.

11:28AM 9 BY MR. PAK:

11:28AM 10 Q. DO YOU KNOW, SIR, WHAT THOSE AUTHORS MEANT WHEN THEY USED  
11:28AM 11 THOSE PHRASES?

11:28AM 12 A. I DON'T KNOW WHAT THEY MEANT.

11:28AM 13 Q. AND LET'S LOOK AT ONE OF THOSE DOCUMENTS, 7996, WHICH  
11:28AM 14 MR. SILBERT USED.

11:28AM 15 IF YOU GO TO THE SECOND PAGE OF THAT, MR. FISHER.

11:28AM 16 THIS WAS THAT CISCO LIVE CONFERENCE, DO YOU RECALL THAT?

11:28AM 17 A. YES, I RECALL THIS DOCUMENT.

11:28AM 18 Q. IT SAYS JOSEPH J. RINEHART, MBA, IT SAYS SENIOR EDUCATION  
11:28AM 19 SPECIALIST AT CISCO SYSTEMS, THAT'S THE PERSON WHO AUTHORED  
11:28AM 20 THIS PRESENTATION?

11:28AM 21 A. YES.

11:28AM 22 Q. HAVE YOU HEARD OF MR. JOSEPH J. RINEHART UNTIL TODAY?

11:28AM 23 A. I HAVE NOT HEARD OF HIM.

11:28AM 24 Q. IS HE AN EXECUTIVE IN THE COMPANY?

11:28AM 25 A. NO.

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:28AM 1 Q. TO YOUR KNOWLEDGE IS HE A CISCO FELLOW?

11:28AM 2 A. NO.

11:28AM 3 Q. DO YOU HAVE ANY IDEA WHAT A SENIOR EDUCATION SPECIALIST  
11:28AM 4 DOES AT CISCO?

11:28AM 5 A. PERHAPS THEY PRODUCE SLIDE DECKS. I DON'T KNOW.

11:29AM 6 Q. BUT THERE WERE LOTS OF QUESTIONS IN YOUR CROSS-EXAMINATION  
11:29AM 7 ABOUT, WELL, OTHER PEOPLE ARE DOING THIS, OTHER PEOPLE ARE  
11:29AM 8 DOING THAT, DO YOU RECALL THAT FROM MR. SILBERT?

11:29AM 9 A. I RECALL THAT.

11:29AM 10 Q. JUST TO MAKE IT CLEAR, ARE YOU AWARE OF ANYONE AT -- THAT  
11:29AM 11 HAD DONE ANY OF THE MULTIWORD COMMANDS THAT WE ARE ASSERTING IN  
11:29AM 12 THIS CASE PRIOR TO YOUR ORIGINATION OF THOSE COMMANDS?

11:29AM 13 A. I'M NOT AWARE OF -- I WAS THE AUTHOR, I WAS THE CREATOR OF  
11:29AM 14 THOSE MULTIWORD COMMANDS.

11:29AM 15 Q. AND JUST TO BE CLEAR, THERE WERE SOME QUESTIONS ABOUT,  
11:29AM 16 AGAIN, A LATER DECK MANUAL WHERE THEY WERE ASKING YOU QUESTIONS  
11:29AM 17 AS TO, YOU KNOW, THIS IS 1993, HAS SOME COMMANDS THAT LOOK  
11:29AM 18 SIMILAR TO THE COMMANDS THAT CISCO DID; DO YOU RECALL THOSE  
11:29AM 19 LINES OF QUESTIONS?

11:29AM 20 A. I DO RECALL THAT.

11:29AM 21 Q. AND YOU SAID WELL, THE 1993 THAT CISCO OFFERED WAS THE  
11:29AM 22 EARLIEST DATE FOR WHICH WE HAD EVIDENCE THAT CERTAIN COMMANDS  
11:29AM 23 WERE ADDED TO THE CISCO SYSTEM, DO YOU RECALL THAT?

11:29AM 24 A. I DID SAY THAT.

11:30AM 25 Q. AND THEN YOU SAID, BUT IT'S MY RECOLLECTION THAT MANY OF

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:30AM 1 THESE COMMANDS WERE CREATED MUCH EARLIER IN TIME, DO YOU RECALL  
11:30AM 2 THAT TESTIMONY?

11:30AM 3 A. YES.

11:30AM 4 Q. AND CAN YOU GIVE A SENSE TO THE JURY AS TO THE TIME PERIOD  
11:30AM 5 WHEN MANY OF THESE COMMANDS THAT WERE ASKED BY YOU WOULD HAVE  
11:30AM 6 BEEN CREATED?

11:30AM 7 A. WHICH --

11:30AM 8 Q. FOR EXAMPLE THE BGP SET OF COMMANDS.

11:30AM 9 A. IN JANUARY OF 1989 YAKOV REKHTER OF IBM AND I COLLABORATED  
11:30AM 10 ON DESIGNS A NETWORK PROTOCOL CALLED BGP. THE INTERNET WAS  
11:30AM 11 HAVING TOO MANY NETWORKS FOR THE EXISTING PROTOCOLS TO HANDLE  
11:30AM 12 SO WE NEEDED TO CREATE SOMETHING NEW.

11:30AM 13 AND WE HAD MET AT A CONFERENCE. WE SKETCHED IT ON TWO  
11:30AM 14 COPIES OF NAPKINS. I TOOK ONE OF THOSE COPIES, YAKOV TOOK THE  
11:30AM 15 OTHER. HE WENT BACK TO IBM, I WENT BACK TO CISCO AND WE  
11:30AM 16 CREATED THE FIRST BGP IMPLEMENTATION, INCLUDING THE COMMANDS TO  
11:31AM 17 SOME OF THE FUNDAMENTAL COMMANDS TO MONITOR THAT STUFF.

11:31AM 18 SO WITHIN A FEW MONTHS WE ACTUALLY HAD THE VERY FIRST TWO  
11:31AM 19 IMPLEMENTATIONS TALKING TO ONE ANOTHER, AND SHORTLY THEREAFTER  
11:31AM 20 WE PUBLISHED THE FIRST -- THE FIRST DOCUMENT THAT SORT OF  
11:31AM 21 DEFINED THE PROTOCOL SO THAT OTHERS COULD LOOK AT IT AND COME  
11:31AM 22 UP WITH THEIR OWN IMPLEMENTATIONS. AND WITHIN SIX MONTHS THERE  
11:31AM 23 WAS ANOTHER IMPLEMENTATION AND PEOPLE -- PEOPLE HAVE BEEN ABLE  
11:31AM 24 TO CREATE -- BGP IS NOW A FOUNDATIONAL PROTOCOL IN THE INTERNET  
11:31AM 25 Q. AND JUST TO BE CLEAR, YOU WERE ONE OF THE FIRST OR YOU WERE

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:31AM 1 ONE OF THE TWO COAUTHORS OF THAT WHOLE PROTOCOL; IS THAT  
11:31AM 2 CORRECT?

11:31AM 3 A. YES.

11:31AM 4 Q. AND I WANT TO NOW, MR. FISHER, GO TO THE SLIDE THAT TALKS  
11:31AM 5 ABOUT MODES AND PROMPTS.

11:32AM 6 YES. WE WILL START HERE. SO DO YOU RECALL THAT MR.  
11:32AM 7 SILBERT ASKED YOU ABOUT THE MODES AND PROMPTS, AND HE FOCUSED  
11:32AM 8 YOUR ATTENTION ON THE USER AND PRIVILEGE EXEC MODES, DO YOU  
11:32AM 9 RECALL THOSE QUESTIONS?

11:32AM 10 A. YES.

11:32AM 11 Q. BUT YOU UNDERSTAND, SIR, THAT CISCO IS NOT CLAIMING THE  
11:32AM 12 PROTECTION OVER INDIVIDUAL MODES?

11:32AM 13 A. CORRECT.

11:32AM 14 Q. AND YOU UNDERSTAND THAT CISCO IS CLAIMING PROTECTION OVER  
11:32AM 15 THE COMBINATION OF ALL FOUR MODES AND THE ASSOCIATED PROMPTS IN  
11:32AM 16 THIS CASE; DO YOU UNDERSTAND THAT?

11:32AM 17 A. YES, THAT'S MY UNDERSTANDING.

11:32AM 18 Q. AND LET'S LOOK AT THOSE ALL FOUR MODES, PARTICULARLY GLOBAL  
11:32AM 19 CONFIGURATION MODE AND THE INTERFACE MODE.

11:32AM 20 CAN YOU REMIND THE JURY AGAIN WHAT THOSE MODES WERE?

11:32AM 21 A. THE GLOBAL CONFIGURATION MODE WAS SOMETHING THAT I CREATED  
11:32AM 22 WHEN I NEEDED TO BE ABLE TO LOAD CONFIGURATION COMMANDS INTO  
11:32AM 23 THE SYSTEM INTERACTIVELY.

11:32AM 24 PREVIOUSLY THERE HAD BEEN, WE WOULD PUT THEM IN A FILE, WE  
11:32AM 25 WOULD DOWNLOAD THEM OVER THE NETWORK, AND THAT WORKED JUST



REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:33AM 1 FINE, IN CERTAIN SITUATIONS. BUT IF I WAS AT A TRADE SHOW OR  
11:33AM 2 AT A CUSTOMER SITE THAT DIDN'T HAVE THAT INFRASTRUCTURE IN  
11:33AM 3 PLACE, I NEEDED SOME WAY TO BE ABLE TO GO IN TO THE TERMINAL  
11:33AM 4 AND TYPE THESE COMMANDS AND ENTER THEM THAT WAY. AND THAT'S  
11:33AM 5 HOW I ENDED UP CREATING THE GLOBAL CONFIGURATION MODE.

11:33AM 6 Q. AND DO YOU REMEMBER TALKING ABOUT THE INTERFACE MODE, YOU  
11:33AM 7 TALKED ABOUT THAT BEING ABLE TO REMEMBER THINGS, CAN YOU  
11:33AM 8 DESCRIBE WHAT THAT MODE IS?

11:33AM 9 A. I THINK I TALKED EXTENSIVELY ABOUT THAT, BUT THAT IS  
11:33AM 10 BASICALLY MY REALIZATION VERY EARLY AT CISCO THAT WE WERE GOING  
11:33AM 11 TO HAVE ALL SORTS OF DIFFERENT PARAMETERS THAT WE WANTED TO  
11:33AM 12 CONFIGURE ON AN INTERFACE. AND ONE LONG COMMAND OR A SERIES OF  
11:33AM 13 COMMANDS WAS -- DIDN'T PARTICULARLY APPEAL TO ME. SO I CREATED  
11:33AM 14 A MODE WHERE YOU COULD SAY INTERFACE, THE INTERFACE NAME, AND  
11:33AM 15 IT REMEMBERED THAT. AND THEN YOU COULD TYPE WHAT ARE CALLED  
11:34AM 16 INTERFACE-SPECIFIC COMMANDS, SUBCOMMANDS UNDERNEATH THAT.

11:34AM 17 AND WHEN YOU TYPED IN A COMMAND THAT WAS NOT AN INTERFACE  
11:34AM 18 SPECIFIC COMMAND, IT WOULD POP BACK TO THE GLOBAL CONFIGURATION  
11:34AM 19 LEVEL

11:34AM 20 Q. SO AGAIN JUST TO REMIND THE JURY, WHO CREATED THE GLOBAL  
11:34AM 21 CONFIGURATION AND INTERFACE MODES?

11:34AM 22 A. I DID.

11:34AM 23 Q. WERE YOU AWARE OF ANY OTHER COMPANY OR ORGANIZATION THAT  
11:34AM 24 HAD THOSE TWO PARTICULAR MODES AND THE ASSOCIATED PROMPTS?

11:34AM 25 A. I WAS TOTALLY AWARE OF ANY COMPANY THAT HAD ANYTHING LIKE

REDIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

11:34AM 1

THAT.

11:34AM 2

Q. SO IF I LOOK AT THE COLLECTION OF ALL FOUR MODES AND

11:34AM 3

PROMPTS HERE, ARE YOU AWARE OF ANY OTHER COMPANY IN THE WORLD

11:34AM 4

THAT HAD DONE THIS COMBINATION OF MODES AND PROMPTS BEFORE YOU

11:34AM 5

DID IT?

11:34AM 6

A. NO.

11:34AM 7

Q. LASTLY, I WANT TO TALK BRIEFLY ABOUT STANFORD, THERE WERE

11:34AM 8

SOME QUESTIONS.

11:34AM 9

JUST TO REMIND THE JURY AGAIN, ALL DISPUTES WITH RESPECT TO

11:34AM 10

STANFORD, WHAT HAPPENED TO THOSE DISPUTES; DO YOU RECALL WHAT

11:34AM 11

HAPPENED?

11:34AM 12

A. WE NEGOTIATED A LICENSE -- WE NEGOTIATED AND PAID FOR A

11:35AM 13

LICENSE OF THAT SOFTWARE.

11:35AM 14

Q. AND YOU UNDERSTAND THAT THERE'S AN EXCLUSIVE LICENSE TO

11:35AM 15

CISCO FOR ALL THE WORK THAT WAS DONE AT STANFORD RELATED IOS?

11:35AM 16

A. YES.

11:35AM 17

Q. AND CAN YOU BRIEFLY DESCRIBE FOR THE JURY THE TYPE OF

11:35AM 18

RELATIONSHIP THAT CISCO AND STANFORD HAS TODAY AND HAS HAD FOR

11:35AM 19

THE LAST 20 YEARS OR SO?

11:35AM 20

A. IT'S A VERY FRIENDLY CORDIAL RELATIONSHIP. ACTUALLY SINCE

11:35AM 21

2001 OR 2002, THE -- JOHN HENNESSY WHO WAS THE PRESIDENT OF

11:35AM 22

STANFORD UNIVERSITY JUST UP UNTIL THE LAST YEAR IS STILL ON OUR

11:35AM 23

BOARD OF DIRECTORS.

11:35AM 24

MR. PAK: THANK YOU, YOUR HONOR. I WILL PASS THE

11:35AM 25

WITNESS.

RE CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:35AM 1 THE COURT: THANK YOU, MR. SILBERT, ANYTHING ELSE FOR  
11:35AM 2 THIS WITNESS?

11:35AM 3 MR. SILBERT: BRIEFLY, YOUR HONOR. THANK YOU.

11:35AM 4

11:35AM 5 **RE CROSS-EXAMINATION BY MR. SILBERT**

11:35AM 6

11:35AM 7 MR. SILBERT:

11:35AM 8 Q. GOOD MORNING, MR. LOUGHEED. IN THE TOPS 20 CLI, THE WORDS  
11:36AM 9 THAT YOU ACTUALLY TYPED INTO THE CLI WERE TERMINAL LENGTH,  
11:36AM 10 CORRECT?

11:36AM 11 A. FOR THE TERMINAL COMMAND IF YOU WANTED TO SPECIFY THE  
11:36AM 12 LENGTH YOU HAD TO TYPE TERMINAL THEN SUPPLY THE ARGUMENT,  
11:36AM 13 LENGTH, THEN THE FOLLOW ON ARGUMENT OF THE LENGTH OF THE  
11:36AM 14 TERMINAL YOU WANTED TO SPECIFY.

11:36AM 15 Q. YOU TYPED THE WORD TERMINAL AND YOU TYPED A SPACE AND YOU  
11:36AM 16 TYPED THE WORD LENGTH AND THEN A SPACE AND A NUMBER, RIGHT?

11:36AM 17 A. YES.

11:36AM 18 Q. AND THAT'S THE SAME WAY YOU DO IT IN THE CISCO CLI, RIGHT?

11:36AM 19 A. WHAT WE ARE REFERRING TO, THERE'S SINGLE WORD COMMANDS THAT  
11:36AM 20 ARE SPECIFIED BY -- BY THE FIRST SET OF UNIQUE WORDS THAT YOU  
11:36AM 21 TYPE.

11:36AM 22 THE WAY THAT I WAS DESCRIBING IT WAS AS A SINGLE WORD  
11:36AM 23 COMMAND.

11:36AM 24 Q. MY QUESTION TO YOU, WHAT YOU ACTUALLY TYPED WAS THE WORD  
11:37AM 25 TERMINAL AND THEN A SPACE AND THEN THE WORD LENGTH, RIGHT?

RECROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:37AM 1 A. YES.

11:37AM 2 Q. OKAY. THE -- MR. PAK ASKED YOU SEVERAL QUESTIONS ABOUT

11:37AM 3 WHETHER DEC, MEANING DIGITAL EQUIPMENT CORPORATION, EVER

11:37AM 4 COMPLAINED TO CISCO ABOUT USE OF INTELLECTUAL PROPERTY, DO YOU

11:37AM 5 REMEMBER THAT?

11:37AM 6 A. YES.

11:37AM 7 Q. UNTIL THE FILING OF THIS LAWSUIT, CISCO NEVER COMPLAINED TO

11:37AM 8 ARISTA ABOUT ANY USE OR ALLEGED MISUSE OF ANY INTELLECTUAL

11:37AM 9 PROPERTY?

11:37AM 10 A. I DON'T HAVE ANY KNOWLEDGE OF THAT.

11:37AM 11 Q. OKAY. DO YOU KNOW, SIR, THAT OVER MORE THAN SIX YEARS OF

11:37AM 12 ARISTA SELLING PRODUCTS, USING THE CLI THAT IT USES, CISCO

11:37AM 13 NEVER ONCE SENT A LETTER TO ARISTA SAYING, WE DISAPPROVE OF

11:37AM 14 THIS CLI YOU ARE USING, WE THINK IT'S OUR INTELLECTUAL

11:38AM 15 PROPERTY, WHY DON'T YOU KNOCK IT OFF?

11:38AM 16 A. I HAVE NO KNOWLEDGE OF THAT.

11:38AM 17 Q. YOU KNOW THAT CISCO NEVER ONCE PICKED UP THE PHONE AND

11:38AM 18 CALLED ARISTA AND SAID, WE NOTICED YOU ARE USING A CLI THAT'S

11:38AM 19 SIMILAR TO OURS, WOULD YOU PLEASE STOP?

11:38AM 20 A. I HAVE NO KNOWLEDGE OF THAT.

11:38AM 21 Q. YOU KNOW THAT, IN FACT, THE FIRST ARISTA EVER HEARD OF ANY

11:38AM 22 COMPLAINT BY CISCO WITH RESPECT TO USING THE CLI IS WHEN CISCO

11:38AM 23 FILED THIS LAWSUIT AND ISSUED A PRESS RELEASE?

11:38AM 24 MR. PAK: OBJECTION. ARGUMENTATIVE YOUR HONOR.

11:38AM 25 LACKS FOUNDATION.

RE CROSS-EXAMINATION OF MR. LOUGHEED BY MR. SILBERT

11:38AM 1 THE COURT: OVERRULED.

11:38AM 2 MR. SILBERT: DO YOU KNOW THAT, SIR.

11:38AM 3 THE WITNESS: I HAVE NO KNOWLEDGE OF THAT.

11:38AM 4 MR. SILBERT: NO FURTHER QUESTIONS.

11:38AM 5 THE COURT: MR. PAK, ANYTHING FURTHER?

11:38AM 6 MR. PAK: NO, YOUR HONOR.

11:38AM 7 THE COURT: MAY MR. LOUGHEED BE EXCUSED?

11:38AM 8 MR. PAK: YES.

11:38AM 9 THE COURT: MR. LOUGHEED, THANK YOU FOR YOUR

11:38AM 10 TESTIMONY. YOU ARE FREE TO GO.

11:38AM 11 MR. NELSON, YOU ARE CALLING THE NEXT WITNESS?

11:38AM 12 MR. NELSON: I'M BACK, YOUR HONOR.

11:38AM 13 THE COURT: OKAY.

11:38AM 14 AND WHO WILL THAT BE?

11:38AM 15 MR. NELSON: THE NEXT WITNESS CISCO CALLS WILL BE

11:39AM 16 MR. PHIL REMAKER.

11:39AM 17 THE COURT: OKAY.

11:39AM 18 AND WE WILL CALL MR. REMAKER INTO THE COURTROOM IF HE'S NOT

11:39AM 19 ALREADY HERE.

11:39AM 20 AND MR. REMAKER IF YOU COULD COME FORWARD TO THE WITNESS

11:39AM 21 STAND PLEASE AND STAND TO BE SWORN.

11:39AM 22

11:39AM 23 **PHILLIP REMAKER,**

11:39AM 24 BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,

11:39AM 25 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

FOLLOWS:

THE WITNESS: YES.

THE CLERK: THANK YOU. PLEASE BE SEATED.

AND IF YOU WOULD, PLEASE STATE YOUR NAME AND SPELL YOUR  
LAST NAME FOR THE RECORD.

THE WITNESS: MY NAME IS PHILLIP REMAKER.

LAST NAME IS SPELLED R-E-M, AS IN MARY, A-K-E-R.

MR. NELSON: MAY I APPROACH?

THE COURT: YES, PLEASE.

MR. NELSON: THANK YOU, YOUR HONOR.

**DIRECT EXAMINATION BY MR. NELSON**

BY MR. NELSON:

Q. ALL RIGHT. I DON'T KNOW HOW TO START THESE ANY OTHER WAY,  
SO CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.

A. MY NAME IS PHILLIP REMAKER.

Q. OKAY. CAN YOU JUST TELL US A LITTLE BIT ABOUT YOURSELF?  
WHERE DO YOU WORK, FOR EXAMPLE.

A. I WORK AT CISCO SYSTEMS.

Q. WHAT DO YOU DO THERE? WHAT'S YOUR POSITION?

A. MY POSITION IS TITLE IS DISTINGUISHED ENGINEER AND  
SERVICES.

Q. SO WHY DON'T YOU TELL US A LITTLE BIT WHAT A DISTINGUISHED

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:40AM 1 ENGINEER IS AT CISCO AND WHAT THAT MEANS?

11:40AM 2 A. A DISTINGUISHED ENGINEER IS A HIGH LEVEL TECHNICAL POSITION  
11:40AM 3 THAT DEALS WITH BROAD-SCALE TECHNICAL ISSUES. IN SERVICES, IN  
11:40AM 4 PARTICULAR, WE LOOK AT EMERGING NEW TECHNOLOGIES, HOW WE ARE  
11:40AM 5 GOING TO SUPPORT THEM, AND IN PARTICULAR, I WORK ON OUR  
11:40AM 6 INTELLECTUAL PROPERTY STRATEGY AS WELL.

11:40AM 7 Q. AND WHEN YOU SAY SERVICES, DISTINGUISHED ENGINEER IN  
11:40AM 8 SERVICES, CAN YOU TELL US WHAT YOU MEAN BY THAT?

11:40AM 9 A. WELL, THE SERVICES ORGANIZATION IS THE GROUP THAT PROVIDES  
11:40AM 10 SERVICES FOR OUR PRODUCTS. IN OTHER WORDS, TECHNICAL SUPPORT,  
11:41AM 11 PROFESSIONAL SERVICES, INSTALLATION AND EVERYTHING, EVERYTHING  
11:41AM 12 AFTER THE SALE TO MAKE THE PRODUCT WORK.

11:41AM 13 Q. DO YOU EVER WORK WITH CUSTOMERS IN THAT REGARD?

11:41AM 14 A. I HAD WORKED WITH CUSTOMERS, YES.

11:41AM 15 Q. NOW LET'S TALK ABOUT YOURSELF A LITTLE BIT MORE. DO YOU  
11:41AM 16 HAVE A FAMILY?

11:41AM 17 A. I DO.

11:41AM 18 Q. AND JUST TELL US A LITTLE BIT ABOUT YOUR FAMILY.

11:41AM 19 A. SO I HAVE BEEN MARRIED FOR 24 YEARS. I HAVE TWO KIDS THAT  
11:41AM 20 ARE 19 AND 18.

11:41AM 21 Q. AND WHERE DO YOU LIVE, SIR?

11:41AM 22 A. I LIVE IN SAN JOSE.

11:41AM 23 Q. HOW LONG HAVE YOU BEEN HERE IN THE BAY AREA?

11:41AM 24 A. I HAVE BEEN IN THE BAY AREA SINCE 1989.

11:41AM 25 Q. WHERE DID YOU COME FROM?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:41AM 1 A. I GREW UP IN PHILADELPHIA.

11:41AM 2 Q. WHAT BROUGHT YOU HERE?

11:41AM 3 A. TECHNOLOGY. SILICON VALLEY. IT'S WHERE ENGINEERS GO.

11:41AM 4 Q. OKAY. WELL THEN, WHY DON'T WE DESCRIBE A LITTLE BIT ABOUT  
11:41AM 5 YOUR EDUCATIONAL BACKGROUND NOW.

11:41AM 6 A. I HAVE A BACHELOR'S DEGREE IN ELECTRICAL ENGINEERING THAT I  
11:42AM 7 GOT FROM THE UNIVERSITY OF PENNSYLVANIA. I HAVE A BACHELOR'S  
11:42AM 8 OF SCIENCE IN ELECTRICAL ENGINEERING FROM THE UNIVERSITY OF  
11:42AM 9 PENNSYLVANIA. I GOT THAT IN 1989.

11:42AM 10 I HAVE A MASTER'S DEGREE IN ELECTRICAL ENGINEERING FROM  
11:42AM 11 SANTA CLARA UNIVERSITY, WHICH I GOT AROUND 1996. AND I HAVE A  
11:42AM 12 MASTER'S DEGREE IN BUSINESS ADMINISTRATION THAT I ALSO GOT FROM  
11:42AM 13 THE SANTA CLARA UNIVERSITY IN 2007.

11:42AM 14 Q. OKAY. SO I NOTICED A BREAK THERE BETWEEN WHEN YOU SAID YOU  
11:42AM 15 GOT YOUR BACHELOR'S DEGREE AND YOUR MASTER'S DEGREE; IS THAT  
11:42AM 16 RIGHT?

11:42AM 17 A. YES.

11:42AM 18 Q. DID YOU DO SOMETHING IN BETWEEN?

11:42AM 19 A. I IMMEDIATELY AFTER GRADUATING WITH MY UNDER GRADUATE  
11:42AM 20 DEGREE I STARTED WORKING AT ADVANCED MICRO DEVICES IN 1989.

11:42AM 21 Q. AND WHAT'S ADVANCED MICRO DEVICES?

11:42AM 22 A. ADVANCED MICRO DEVICES IS A SEMICONDUCTOR MANUFACTURER  
11:42AM 23 BASED IN SUNNYVALE, CALIFORNIA.

11:42AM 24 Q. SO WHAT KINDS OF THINGS WERE YOU DOING THERE?

11:42AM 25 A. I MANAGED THEIR COMPUTER NETWORK.



DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:43AM 1 Q. SO HOW LONG WERE YOU AT AMD THEN?

11:43AM 2 A. I WAS AT AMD FOR ABOUT TWO AND A HALF YEARS.

11:43AM 3 Q. AND THEN WHAT DID YOU DO?

11:43AM 4 A. I WENT TO WORK FOR CISCO SYSTEMS.

11:43AM 5 Q. WHAT YEAR WAS THAT?

11:43AM 6 A. 1992.

11:43AM 7 Q. AND WHY DID YOU GO TO CISCO, WHY DID YOU CHOOSE CISCO?

11:43AM 8 A. I WAS A CUSTOMER OF CISCO WHEN I WORKED AT ADVANCED MICRO

11:43AM 9 DEVICES. AND I WAS REALLY IMPRESSED WITH THEIR PRODUCT AND

11:43AM 10 THEIR PEOPLE AND I WAS -- I'M AN ENGINEER AT HEART, AND THESE

11:43AM 11 FOLKS WERE REALLY TECHNICAL, REALLY PASSIONATE, AND IT LOOKED

11:43AM 12 LIKE A GREAT PLACE TO WORK.

11:43AM 13 Q. SO THEN WHAT WAS YOUR FIRST POSITION WHEN YOU CAME TO

11:43AM 14 CISCO?

11:43AM 15 A. I WAS A CUSTOMER SUPPORT ENGINEER, WHICH MEANT THAT I TOOK

11:43AM 16 CALLS AND E-MAILS FROM CUSTOMERS AND SOLVED THEIR PROBLEMS.

11:43AM 17 Q. LIKE WHAT KINDS OF PROBLEMS?

11:43AM 18 A. TECHNICAL PROBLEMS WITH THEIR COMPUTER NETWORKS,

11:43AM 19 SPECIFICALLY WITH THE ROUTERS THAT THEY USED TO CARRY THEIR

11:43AM 20 NETWORK TRAFFIC.

11:44AM 21 Q. AND OTHER POSITIONS, WHAT OTHER KINDS OF POSITIONS DID YOU

11:44AM 22 HAVE AT CISCO?

11:44AM 23 A. I'VE HAD QUITE A FEW. I WENT ON TO BECOME A SENIOR SUPPORT

11:44AM 24 ENGINEER. I WENT TO A GROUP CALLED THE ESCALATION TEAM WHICH

11:44AM 25 HANDLED SOME OF THE HARDEST CUSTOMER PROBLEMS. I WENT ON TO

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:44AM 1       MANAGE THAT TEAM.

11:44AM 2               THEN I MADE A BREAK OVER TO THE PROFESSIONAL SERVICES

11:44AM 3       ORGANIZATION WHERE I HELPED DO OUR EARLY DEPLOYMENT OF DOING

11:44AM 4       TELEPHONES OVER NETWORK TECHNOLOGY.

11:44AM 5               FROM THERE I WENT ON TO BEING A TECHNICAL LEADER IN THE

11:44AM 6       SERVICES ORGANIZATION AND THEN ON TO BE A DISTINGUISHED

11:44AM 7       ENGINEER.

11:44AM 8       Q.    SO YOU TALKED ABOUT THE PROFESSIONAL SERVICES ORGANIZATION,

11:44AM 9       I THINK THAT'S A TERM I HEARD YOU USE?

11:44AM 10      A.   YES.

11:44AM 11     Q.   WHAT'S THAT?

11:44AM 12     A.   THE PROFESSIONAL SERVICES ORGANIZATION, WHEN A CUSTOMER HAS

11:44AM 13     A NEW TECHNOLOGY OR A COMPLICATED TECHNOLOGY, AND THEY DON'T

11:44AM 14     KNOW EXACTLY HOW TO DEPLOY IN THE NETWORK, THEY HIRE CISCO'S

11:44AM 15     PROFESSIONAL SERVICES TO HELP WITH THAT.

11:44AM 16     Q.   SO NOW, TODAY, CAN YOU GIVE US AN IDEA OF WHAT YOU TODAY TO

11:45AM 17     DAY, GENERALLY TODAY AT CISCO?

11:45AM 18     A.   SO DAY TO DAY I LOOK, AGAIN, AT EMERGING AND NEW

11:45AM 19     TECHNOLOGIES. I WORK ON INTELLECTUAL PROPERTY STRATEGY AND I

11:45AM 20     WILL PERIODICALLY GO OUT AND SPEAK TO ENGINEERS AND HELP THEM

11:45AM 21     LEARN HOW TO BETTER INTERACT WITH THE ENGINEERING ORGANIZATION,

11:45AM 22     BOTH IN THE SERVICES GROUP AND IN THE PRODUCT DEVELOPMENT

11:45AM 23     GROUP.

11:45AM 24     Q.   SO IN CONNECTION WITH THAT, YOU SAID YOU GO OUT AND TALK TO

11:45AM 25     THE ENGINEERS, DO YOU MAKE ANY KINDS OF PRESENTATIONS TO

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:45AM 1 ENGINEERS?

11:45AM 2 A. I DO. I HAVE A NUMBER OF PRESENTATIONS I GIVE TO HELP  
11:45AM 3 ENGINEERS UNDERSTAND HOW TO NAVIGATE THEIR WAY AROUND CISCO,  
11:45AM 4 HOW TO INTERACT WITH ENGINEERING, AND BITS ABOUT THE CULTURE OF  
11:45AM 5 HOW THE COMPANY WORKS.

11:45AM 6 Q. WHY IS IT IMPORTANT TO TALK TO THEM ABOUT THE CULTURE?

11:45AM 7 A. IF YOU UNDERSTAND HOW THE PEOPLE AROUND YOU THINK AND HOW  
11:45AM 8 THEY WORK AND WHAT THEY DO, ENGINEERS CAN BE MORE EFFECTIVE.

11:46AM 9 Q. SO PRETEND I'M AN ENGINEER, TELL ME ABOUT THE CULTURE, A  
11:46AM 10 LITTLE BIT?

11:46AM 11 A. THE CULTURE AT ITS VERY FOUNDATION IS ABOUT MAKING  
11:46AM 12 CUSTOMERS SUCCESSFUL.

11:46AM 13 AND TWO OF THE MAJOR WAYS WE DO THAT IS BY EMPOWERING  
11:46AM 14 INDIVIDUAL ENGINEERS TO DO THE RIGHT THING FOR CUSTOMERS AND TO  
11:46AM 15 ENCOURAGE THEM TO WORK AS TEAMS, TO WORK AS GROUPS WITH EACH  
11:46AM 16 OTHER, TO FIND THE BEST WAY TO SOLVE CUSTOMER PROBLEMS.

11:46AM 17 Q. SO YOU SAY EMPOWERING. CAN YOU TELL US WHAT YOU MEAN BY  
11:46AM 18 EMPOWERING, MAYBE GIVE ME AN EXAMPLE?

11:46AM 19 A. SO EMPOWERMENT IS THE ABILITY TO MAKE A DECISION, TO DO  
11:46AM 20 SOMETHING WITH YOUR OWN PROFESSIONAL JUDGMENT WITHOUT  
11:46AM 21 NECESSARILY HAVING TO JUMP THROUGH A LOT OF PROCESS HOOPS OR  
11:46AM 22 FILL OUT A LOT OF PROCESS FORMS.

11:46AM 23 WE THINK IT'S ACTUALLY A GREAT THING FOR ENGINEERS. WE  
11:46AM 24 ACTUALLY CAN ATTRACT BETTER ENGINEERS BECAUSE OF THAT. WE FIND  
11:46AM 25 THAT THE CREATIVE AND STRONG ENGINEERS LIKE TO HAVE MORE SAY IN

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:46AM 1 WHAT THEY DO, LIKE TO HAVE MORE CONTROL OVER THEIR WORK.

11:46AM 2 SO AN ENVIRONMENT WHERE AN ENGINEER IS EMPOWERED TENDS TO,  
11:47AM 3 I THINK, ATTRACT SMARTER AND MORE CLEVER ENGINEERS.

11:47AM 4 Q. SO CAN YOU GIVE ME A SPECIFIC EXAMPLE OF EMPOWERMENT, AN  
11:47AM 5 EXAMPLE OF EMPOWERMENT THAT MIGHT BE RELEVANT TO THIS CASE  
11:47AM 6 HERE?

11:47AM 7 A. IN DEVELOPING CISCO'S COMMAND-LINE INTERFACE, THERE IS A  
11:47AM 8 LOT OF INDIVIDUAL JUDGMENT AND EMPOWERMENT OF ENGINEERS  
11:47AM 9 INVOLVED IN THAT KIND OF DEVELOPMENT.

11:47AM 10 Q. CAN YOU TELL ME WHAT YOU MEAN BY THAT?

11:47AM 11 A. SO THE -- THE INDIVIDUAL -- THE INDIVIDUAL ENGINEER IS  
11:47AM 12 RESPONSIBLE FOR WRITING CODE TO PERFORM FUNCTIONS IN THE  
11:47AM 13 DEVICES. AND AS PART OF DEVELOPING THE FUNCTIONS THEY HAVE TO  
11:47AM 14 DEVELOP THE USER INTERFACE, THE COMMAND-LINE INTERFACE TO CAUSE  
11:47AM 15 THAT TO HAPPEN.

11:47AM 16 Q. NO, THAT'S GOOD. IT'S MY TURN NOW.

11:47AM 17 A. CAN I TELL YOU MORE?

11:47AM 18 Q. NO, THAT'S GOOD. NOW IT'S MY TURN.

11:47AM 19 WE HEARD ABOUT SOMETHING CALLED THE PARSER-POLICE

11:48AM 20 A. YES.

11:48AM 21 Q. HAVE YOU EVER HEARD OF THAT?

11:48AM 22 A. YES, I HAVE HEARD THE PARSER-POLICE IS AN E-MAIL LIST, A  
11:48AM 23 GLOBAL DISCUSSION GROUP ABOUT ISSUES AROUND THE COMMAND-LINE  
11:48AM 24 INTERFACE, THE PARSER.

11:48AM 25 Q. SO HAVE YOU HAD ANY INVOLVEMENT WITH THE PARSER-POLICE?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:48AM 1 A. I HAVE -- I HAVE BEEN ON THE PARSER-POLICE MAILING LIST  
11:48AM 2 PROVIDING FEEDBACK. I HAVE DEVELOPED A COMMAND MYSELF AND GOT  
11:48AM 3 FEEDBACK FROM THE PARSER-POLICE, AND I DEVELOPED A DOCUMENT  
11:48AM 4 CALLED THE PARSER-POLICE MANIFESTER.

11:48AM 5 Q. ALL RIGHT. SO LET'S TALK ABOUT THE PARSER-POLICE  
11:48AM 6 MANIFESTER.

11:48AM 7 CAN YOU TELL ME WHAT THE PARSER-POLICE MANIFESTER IS?

11:48AM 8 A. THE PARSER-POLICE MANIFESTER IS A DOCUMENT THAT I AUTHORED  
11:48AM 9 WHICH PROVIDES A SET OF GUIDELINES TO ENGINEERS ABOUT THE  
11:48AM 10 CONTENTS OR THE WAY THEY SHOULD DEVELOP THE USER INTERFACE, THE  
11:48AM 11 COMMAND-LINE INTERFACE TO CISCO PRODUCTS.

11:48AM 12 Q. AND WHEN DID YOU AUTHOR THAT DOCUMENT?

11:48AM 13 A. SOME TIME IN THE LATE 1990'S.

11:48AM 14 Q. DO YOU KNOW WHETHER THAT'S A DOCUMENT THAT'S BEEN  
11:48AM 15 MAINTAINED AT CISCO?

11:48AM 16 A. IT HAS. IT GETS PERIODICALLY REVISED AND THERE IS A  
11:49AM 17 CURRENT VERSION IN OUR DOCUMENT CONTROL SYSTEM THAT YOU CAN  
11:49AM 18 PULL UP.

11:49AM 19 Q. HOW ABOUT -- IS IT SOMETHING THAT'S EVER REFERRED TO?

11:49AM 20 A. A LOT OF INTERNAL PROCESSES REFER TO USING THE  
11:49AM 21 PARSER-POLICE AND -- THE PARSER-POLICE MANIFESTER IS KEY TO  
11:49AM 22 UNDERSTANDING HOW TO BEST USE THE PARSER-POLICE DISCUSSION  
11:49AM 23 GROUP.

11:49AM 24 Q. SO I WANT TO TURN TO THAT IN A MINUTE. THE TERM POLICE,  
11:49AM 25 THAT KIND OF TO ME, THAT'S AUTHORITY, RIGHT?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:49AM 1 A. YOU WOULD THINK SO. BUT IT'S ACTUALLY NOT AN AUTHORITY.

11:49AM 2 IT IS A DISCUSSION GROUP. IT'S MORE OF AN ADVICE GROUP.

11:49AM 3 Q. AND WHAT DO YOU MEAN BY THAT? GIVE ME AN EXAMPLE?

11:49AM 4 A. SO THE -- AN ENGINEER COMING UP WITH A NEW COMMAND WILL

11:49AM 5 PROPOSE THE SYNTAX TO THE PARSER-POLICE FOR FEEDBACK. AND

11:49AM 6 THERE ARE A GROUP OF VOLUNTEERS WHO STAFF THIS LIST WHO PROVIDE

11:50AM 7 FEEDBACK BASED ON WHAT THEY BELIEVE ARE BEST PRACTICES.

11:50AM 8 AND THE DISCUSSIONS, AS YOU CAN IMAGINE, WE'VE GOT

11:50AM 9 EMPOWERED, OPINIONATED AND SMART ENGINEERS, THEY MAY NOT REACH

11:50AM 10 A CONCLUSION THAT EVERYBODY AGREES WITH. BUT THE POINT IS IT'S

11:50AM 11 A SET OF FEEDBACK.

11:50AM 12 AND AT THE END OF THE DAY, THE ENGINEER WRITING THE COMMAND

11:50AM 13 HAS THE SAY OF HOW IT GOES INTO THE CODE, HOW THE COMMAND GETS

11:50AM 14 WRITTEN.

11:50AM 15 Q. SO LET ME TURN TO -- OR HAVE YOU TURN TO, I GAVE YOU THE

11:50AM 16 BINDER, WE SHOULD USE IT. EXHIBIT 851 SHOULD BE BEHIND A TAB

11:50AM 17 THERE.

11:50AM 18 A. I HAVE IT.

11:50AM 19 Q. DO YOU SEE THAT?

11:50AM 20 A. I DO.

11:50AM 21 Q. DO YOU RECOGNIZE THIS DOCUMENT?

11:50AM 22 A. I DO.

11:50AM 23 Q. AND CAN YOU TELL US WHAT IT IS?

11:50AM 24 A. THIS IS ONE OF THE EARLY VERSIONS OF THE PARSER-POLICE

11:51AM 25 MANIFESTER.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:51AM 1 Q. IS THIS A DOCUMENT THAT YOU AUTHOR?

11:51AM 2 A. THIS IS A DOCUMENT THAT I AUTHORED.

11:51AM 3 MR. NELSON: SO YOUR HONOR, AT THIS POINT I MOVE FOR  
11:51AM 4 ADMISSION OF EXHIBIT 851 INTO EVIDENCE.

11:51AM 5 THE COURT: ANY OBJECTION?

11:51AM 6 MR. FERRALL: NO OBJECTION.

11:51AM 7 THE COURT: ALL RIGHT. IT WILL BE ADMITTED.

11:51AM 8 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 851, HAVING BEEN  
11:51AM 9 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
11:51AM 10 EVIDENCE.)

11:51AM 11 MR. NELSON: ALL RIGHT. SO LET'S GO -- WELL, WE  
11:51AM 12 MIGHT AS WELL START AT THE BEGINNING.

11:51AM 13 Q. THERE'S A SECTION THERE CALLED PURPOSE, DO YOU SEE THAT?

11:51AM 14 A. YES.

11:51AM 15 Q. CAN YOU TELL US WHAT THIS IS?

11:51AM 16 A. THIS IS TO INTRODUCE PEOPLE WHO HAVE NOT ENCOUNTERED THE  
11:51AM 17 PARSER-POLICE DISCUSSION GROUP BEFORE TO UNDERSTAND WHAT THE  
11:51AM 18 PURPOSE OF THE MAILING LIST IS.

11:51AM 19 Q. SO I WANT TO HIGHLIGHT A LITTLE BIT HERE WHERE IT SAYS, TO  
11:51AM 20 ENSURE CONSISTENCY, USABILITY AND FRIENDLINESS OF THE  
11:51AM 21 CONFIGURATION INTERFACE TO CISCO IOS; DO YOU SEE THAT?

11:51AM 22 A. YES.

11:51AM 23 Q. SO WHAT DID YOU MEAN BY THAT, WHAT WERE YOU TRYING TO  
11:52AM 24 CONVEY?

11:52AM 25 A. NO, THERE'S A CERTAIN AESTHETIC TO THE DESIGN OF THE USER

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:52AM 1 INTERFACE, IT'S ARRANGED IN A HIERARCHY, THE WORDS SEND TO  
11:52AM 2 APPEAR IN A SEQUENCE, AND THERE'S A SENSE OF HOW IT SHOULD BE,  
11:52AM 3 AND WE -- WHEN IT WORKS WELL, WE SAY IT'S CONSISTENT, MEANING  
11:52AM 4 THAT IT BEHAVES THE WAY YOU EXPECT AS YOU GO THROUGH IT.

11:52AM 5 IT'S USEABLE MEANING YOU CAN UNDERSTAND WHAT THE COMMANDS  
11:52AM 6 MEAN, AND IT'S FRIENDLY, MEANING IT'S EASY TO USE AND NOT  
11:52AM 7 CRAZY.

11:52AM 8 Q. WHY DID YOU THINK THAT WAS IMPORTANT TO CONVEY TO THE  
11:52AM 9 ENGINEERS THAT MIGHT BE COMING UP WITH COMMANDS?

11:52AM 10 A. IF YOU'RE GENERATING A COMMAND, EVEN FOR THE FIRST TIME,  
11:52AM 11 YOU MAY NOT HAVE ANY CONTEXT FOR THE COMMAND. SO IT'S  
11:52AM 12 IMPORTANT TO UNDERSTAND THAT THERE ARE ELEMENTS OF COMMAND  
11:52AM 13 DEVELOPMENT THAT ARE IMPORTANT, INCLUDING BACKWARDS  
11:52AM 14 COMPATIBILITY WITH WHAT EXISTS, THINKING ABOUT FUTURE  
11:52AM 15 EXTENSIBILITY, CONSIDERING THE ENGINEER'S OWN PREFERENCES AND  
11:53AM 16 THINKING ABOUT WHAT THE CUSTOMER MIGHT HAVE. SO THESE ARE ALL  
11:53AM 17 COMPETING CONCERNS.

11:53AM 18 SO YOU WANT TO LET THEM KNOW THAT THESE THINGS ARE  
11:53AM 19 CONTAINED, I THINK, IN CONSISTENCY, USABILITY AND FRIENDLINESS.

11:53AM 20 Q. AND ONE OF THE TERMS YOU USE THAT I HEARD A FEW TIMES IS  
11:53AM 21 EXTENSIBILITY.

11:53AM 22 A. YES.

11:53AM 23 Q. CAN YOU TELL ME WHAT YOU MEAN BY THAT?

11:53AM 24 A. WHEN FEATURES GET ADDED TO THE PRODUCT ALL THE TIME AND  
11:53AM 25 THEY -- WHEN YOU ARE CREATING A COMMAND FOR THE FIRST TIME,



DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:53AM 1 WHEN YOU ARE INTRODUCING A FEATURE FOR THE FIRST TIME AS AN  
11:53AM 2 ENGINEER, YOU SHOULD THINK ABOUT WHAT MIGHT HAPPEN IN THE  
11:53AM 3 FUTURE, WHAT THINGS MIGHT COME LATER AND DESIGN THE COMMAND SO  
11:53AM 4 THAT NEW KEY WORDS CAN BE ADDED OR NEW ELEMENTS IN THE  
11:53AM 5 SEQUENCE OR NEW MEMBERS OF THE HIERARCHY SO THAT WHEN YOU  
11:53AM 6 CREATE A COMMAND FOR THE FIRST TIME, YOU THINK, YOU KNOW, 2, 3,  
11:53AM 7 5, YEARS DOWN THE LINE WHAT'S GOING TO HAPPEN NEXT.

11:54AM 8 Q. NOW, I WANT TO GO TO THE NEXT SECTION OF THIS DOCUMENT. IT  
11:54AM 9 SAYS AUTHORITY?

11:54AM 10 A. YES.

11:54AM 11 Q. CAN YOU TELL ME WHAT THE PURPOSE OF THIS SECTION WAS?

11:54AM 12 A. THIS WAS TO MAKE IT CLEAR THAT THE PARSER-POLICE WAS IN  
11:54AM 13 FACT A DISCUSSION GROUP AND THAT NOTHING THAT THE PARSER-POLICE  
11:54AM 14 SAID WAS GOING TO BE BINDING ON THE PROFESSIONAL JUDGMENT OF  
11:54AM 15 THE ENGINEER AUTHORIZING THE COMMAND, IT WAS JUST THERE FOR  
11:54AM 16 GUIDELINES, ALTHOUGH SOME OTHER GUIDELINES IN THE COMPANY MIGHT  
11:54AM 17 REQUIRE YOU TO GET FEEDBACK, THERE WAS NO REQUIREMENT THAT THE  
11:54AM 18 ENGINEER ACCEPT THE FEEDBACK.

11:54AM 19 Q. AND WHY WAS THAT?

11:54AM 20 A. AGAIN, ENGINEERS ARE EMPOWERED, WE WANT THEM TO EXERCISE  
11:54AM 21 THEIR PROFESSIONAL JUDGMENT IN DOING WHAT THEY DO.

11:54AM 22 Q. SO I WANT TO GO TO THE SECOND PARAGRAPH, AND THE FIRST  
11:54AM 23 SENTENCE THERE IN THE SECOND PARAGRAPH, IT SAYS, HOWEVER, AND  
11:54AM 24 YOU CAN HIGHLIGHT THAT, MR. FISHER WHILE I READ QUITE SLOWLY.

11:55AM 25 HOWEVER, SINCE IT HAS NO SPECIFIC AUTHORITY, PARSER-POLICE

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:55AM 1 DERIVES ITS AUTHORITY BY HAVING GOOD ANSWERS, LEVEL-HEADED

11:55AM 2 DISCOURSE AND A HISTORY OF SUCCESSES. DO YOU SEE THAT?

11:55AM 3 A. THAT'S RIGHT.

11:55AM 4 Q. SO WHAT WERE YOU REFERRING TO, WILLFUL-HEADED DISCOURSE

11:55AM 5 THERE?

11:55AM 6 A. AS I SAID, WHEN YOU'VE GOT A BUNCH OF INTELLIGENCE,

11:55AM 7 OPINIONATED ENGINEERS, WHEN THEIR OPINIONS DIFFER, LET'S JUST

11:55AM 8 SAY SOME OF THE DISCUSSION CAN GET PERSONAL. SO THIS WAS A

11:55AM 9 POLITE REMINDER TO THE MEMBERS OF THE LIST THAT WE EXPECTED THE

11:55AM 10 DISCOURSE TO BE CIVIL AND LEVEL HEADED, AND THAT THE AUTHORITY

11:55AM 11 DID NOT COME FROM SOME RULE SAYING YOU HAVE TO FOLLOW IT. BUT

11:55AM 12 THE PARSER-POLICE ONLY HAD AUTHORITY WHEN IT CAME UP WITH GOOD

11:55AM 13 ANSWERS AND SUCCESSFUL ANSWERS.

11:55AM 14 SO IT WAS IMPORTANT TO BE POLITE AND LISTEN TO OTHER FOLKS

11:55AM 15 ON THE LIST AND NOT JUST GET INTO FIGHTS.

11:55AM 16 Q. WERE THERE TIMES WHEN THAT WASN'T THE CASE, WHEN THE

11:55AM 17 DISCOURSE WAS LESS THAN LEVEL-HEADED?

11:56AM 18 A. OH, YEAH.

11:56AM 19 Q. AND WHAT DO YOU MEAN BY THAT?

11:56AM 20 A. JUST, IF -- IF -- IF TWO CAMPS OF ENGINEERS HAD DIFFERENT

11:56AM 21 OPINIONS ABOUT, WELL, WE SHOULD ADD A NEW NODE NOT HEIRARCHY,

11:56AM 22 NO, IT REALLY SHOULD BE A KEY WORD IN THE EXISTING HIERARCHY,

11:56AM 23 YOU WOULD THINK THAT FOR SOMETHING SO NERDY AND TECHNICAL THAT

11:56AM 24 IT WOULDN'T GET VERY PASSIONATE, BUT THIS IS WHAT THE ENGINEERS

11:56AM 25 DO, THEY REALLY, THEY REALLY GET INTO IT.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:56AM 1 AND THERE ARE TIMES WHEN THE GROUP DID NOT COME TO A  
11:56AM 2 CONSENSUS ABOUT THE BEST WAY TO DO THINGS.

11:56AM 3 Q. HOW LONG WOULD THESE DISCUSSIONS GO ON?

11:56AM 4 A. USUALLY, NO MORE THAN A COUPLE OF DAYS.

11:56AM 5 Q. SO THEN YOU MENTIONED CONSENSUS, SO WE SHOULD PROBABLY DROP  
11:56AM 6 DOWN A BIT. AND I THINK IT'S ON THE SECOND PAGE, THERE'S A  
11:56AM 7 HEADING CALLED NO CONSENSUS. DO YOU SEE THAT? IT'S TOWARDS  
11:56AM 8 THE BOTTOM.

11:56AM 9 SO WHAT WAS THE PURPOSE OF THIS SECTION?

11:57AM 10 A. AND AGAIN, THIS WAS TO MAKE IT CLEAR THAT THE GROUP WAS FOR  
11:57AM 11 FEEDBACK. IF A CONSENSUS WAS NOT REACHED, IT WOULD BE UP TO  
11:57AM 12 THE PARTICULAR ENGINEER WHAT TO DO.

11:57AM 13 Q. AND IF WE GO ON TO THE NEXT, I THINK IT CARRIES ON TO THE  
11:57AM 14 NEXT PAGE, THERE'S ANOTHER PARAGRAPH THERE.

11:57AM 15 OKAY. YEAH, I THINK YOU HAVE IT ALL NOW. I'M SORRY TO  
11:57AM 16 INTERRUPT. GO AHEAD, PLEASE.

11:57AM 17 A. YEAH. THANK YOU. RIGHT.

11:57AM 18 SO IF THE DECISION -- IF NO AGREEMENT WAS REACHED, IT WAS  
11:57AM 19 THE PROFESSIONAL JUDGMENT OF THE ENGINEER THAT RULED THE DAY,  
11:57AM 20 THE ENGINEER WRITING THE CODE OR INTRODUCING THE COMMAND.

11:57AM 21 Q. AND WHY WAS -- WHY DID YOU HAVE THAT GUIDELINE IN THERE?

11:57AM 22 A. IT WAS JUST, AGAIN, IT WAS TO MAKE IT CLEAR THAT THERE WERE  
11:58AM 23 SOME SITUATIONS WHERE IF A CONSENSUS WASN'T REACHED, SOME  
11:58AM 24 PEOPLE MIGHT SAY, WELL, I CAN'T PROCEED BECAUSE WE DIDN'T REACH  
11:58AM 25 CONSENSUS, AND THIS WAS MAKING IT CLEAR THAT NO, YOU ABSOLUTELY

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:58AM 1 CAN PROCEED, THE PARSER-POLICE IS ABOUT GETTING FEEDBACK, NOT  
11:58AM 2 ABOUT IMPOSING RULES.

11:58AM 3 Q. SO IF I GO UP TO THAT FIRST PARAGRAPH, I THINK IT'S MAYBE  
11:58AM 4 THIS SECOND SENTENCE, IT SAYS, IN PRACTICE, A SUBMITTER HAS THE  
11:58AM 5 CHOICE OF HOW TO DEAL WITH FEEDBACK, BUT PROTOCOL DICTATES THAT  
11:58AM 6 THE MOST APPROPRIATE AND PROFESSIONAL COURSE OF ACTION IS FOR  
11:58AM 7 THE SUBMITTER TO TAKE RESPONSIBILITY TO WORK FOR A CONSENSUS.

11:58AM 8 DO YOU SEE THAT?

11:58AM 9 A. THAT'S RIGHT.

11:58AM 10 Q. SO WHAT WERE YOU TRYING TO CONVEY THERE?

11:58AM 11 A. SO AGAIN, THE IDEA IS WE ARE ALL ADULTS HERE. THE  
11:58AM 12 SUBMITTER IS OF COURSE THE ENGINEER WRITING THE CODE. AND THE  
11:58AM 13 POINT IS THAT THE ENGINEER WRITING THE CODE SHOULD LISTEN TO  
11:58AM 14 THE FEED BACK AND ENGAGE IN THE DISCUSSION AND SAY, WELL HOW  
11:59AM 15 ABOUT THIS INSTEAD, AND HOW ABOUT THAT, INSTEAD OF THE POINT  
11:59AM 16 WAS THAT BEING ON THE PARSER-POLICE WAS NOT A PASSIVE ACTIVITY,  
11:59AM 17 YOU DIDN'T JUST LOB SOMETHING OVER THE WALL AND WAIT FOR A  
11:59AM 18 RESPONSE, IT WAS A DISCUSSION GROUP.

11:59AM 19 AND THIS WAS TELLING PEOPLE THE SUBMITTER DOES HAVE THE  
11:59AM 20 CHOICE, THEY ARE EMPOWERED ON HOW -- THEY WERE EMPOWERED ON  
11:59AM 21 WHETHER OR NOT TO ACT ON THE FEEDBACK.

11:59AM 22 BUT THIS WAS A REMINDER THAT THE PEOPLE ON PARSER-POLICE  
11:59AM 23 ARE SMART TOO. AND IT WOULD BE IN THEIR BEST INTEREST TO PAY  
11:59AM 24 ATTENTION TO AND ENGAGE IN THE FEEDBACK.

11:59AM 25 Q. SO NOW THERE'S ANOTHER SECTION, LAST -- ACTUALLY IT'S THE

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

11:59AM 1 LAST SECTION OF THE DOCUMENT. ITS HEADING IS SYNTAX DESIGN

11:59AM 2 GUIDELINES, DO YOU SEE THAT?

11:59AM 3 A. YES.

11:59AM 4 Q. SO IF I GO TO THE FIRST -- YEAH, EXACTLY, THAT FIRST

12:00PM 5 PARAGRAPH, IT SAYS, THINK EXTENSIBLE. IF YOU ADD A COMMAND,

12:00PM 6 TRY TO ENVISION IF MORE SIMILAR COMMANDS THAT MAY BE ADDED, AND

12:00PM 7 STRUCTURE THE PARSE TREE NOT TO HAVE DEAD ENDS.

12:00PM 8 DO YOU SEE THAT?

12:00PM 9 A. I DO.

12:00PM 10 Q. CAN YOU EXPLAIN TO US WHAT THAT'S REFERRING TO?

12:00PM 11 A. SO AS I MENTIONED EARLIER, COMMANDS ARE A SEQUENCE OF WORDS

12:00PM 12 ARRANGED IN A HIERARCHY.

12:00PM 13 AND THE IDEA IS THAT WHEN YOU CREATE A COMMAND WORD, YOU

12:00PM 14 SHOULD THINK ABOUT IF THAT COMMAND MIGHT EVER BE EXTENDED TO

12:00PM 15 INCLUDE ANOTHER WORD.

12:00PM 16 I HAVE AN EXAMPLE HERE, THERE'S A TECHNOLOGY CALLED DNS-IX,

12:00PM 17 AND WHEN IT WAS FIRST INTRODUCED THERE WAS ONLY THE DMDP

12:00PM 18 CAPABILITY.

12:00PM 19 SO THE ENGINEER, NOT THINKING EXTENSIBLY, MADE A SINGLE

12:01PM 20 CONCEPT. DNS-IX-DMDP.

12:01PM 21 NOW THE PROBLEM IS WHEN WE WANTED TO ADD A NEW DNS-IX

12:01PM 22 FEATURE LATER, WE WERE STUCK, WE MADE A DEAD END. IT WASN'T

12:01PM 23 EXTENSIBLE, BECAUSE A SINGLE WORD ACCIDENTALLY CONTAINED TWO

12:01PM 24 CONCEPTS. JUST AN OVERSIGHT.

12:01PM 25 SO WE SAID THE BETTER PRACTICE WOULD BE TO MAKE DNS-IX ITS

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

12:01PM 1 OWN NODE SO THAT YOU CAN EXTEND THE HIERARCHY AND ADD DMDP

12:01PM 2 LATER, ADD ANY OTHER FEATURE AFTER IT SO THAT ALL THE DNS-IX

12:01PM 3 COMMANDS WOULD BE NATURALLY GROUPED TOGETHER

12:01PM 4 Q. AND WHEN YOU ARE TALKING ABOUT THAT, YOU ARE TALKING ABOUT

12:01PM 5 THE SEQUENCE OF THE WORDING OF THE COMMANDS?

12:01PM 6 A. THE SEQUENCE OF THE WORDS IN THE COMMAND IN THE

12:01PM 7 COMMAND-LINE INTERFACE.

12:01PM 8 Q. OKAY.

12:01PM 9 THE COURT: IS THAT THE END OF THE DOCUMENT?

12:02PM 10 MR. NELSON: YEAH, I'M AT THE END OF THE DOCUMENT,

12:02PM 11 YOUR HONOR.

12:02PM 12 THE COURT: ALL RIGHT. IT'S TIME FOR OUR LUNCH

12:02PM 13 BREAK. LET'S TAKE OUR ONE-HOUR LUNCH AND WE WILL COME BACK AT

12:02PM 14 1:05.

12:02PM 15 MR. NELSON: THANK YOU, YOUR HONOR.

12:02PM 16 (WHEREUPON A RECESS WAS TAKEN.)

01:06PM 17 THE COURT: ALL OF OUR JURORS ARE HERE AND, MR. NELSON, WE

01:06PM 18 ARE GOING TO CALL MR. REMAKER BACK TO THE STAND; IS THAT

01:06PM 19 CORRECT?

01:06PM 20 MR. NELSON: YES, YOUR HONOR. LET ME FIND HIM.

01:06PM 21 THE COURT: THAT WOULD BE A GOOD THING.

01:06PM 22 MR. NELSON: I FOUND HIM.

01:07PM 23 THE COURT: GOOD AFTERNOON. ALL RIGHT. MR. NELSON,

01:07PM 24 GO AHEAD, PLEASE.

01:07PM 25 MR. NELSON: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:07PM 1 Q. SO WE WERE TALKING ABOUT THE PARSER-POLICE DOCUMENT BEFORE  
01:07PM 2 LUNCH AND I WANT TO GO BACK AND REMIND US WHERE WE WERE. THE  
01:07PM 3 VERY LAST SECTION, SYNTAX DESIGN GUIDELINES, AND WE WERE  
01:07PM 4 TALKING ABOUT NUMBER ONE.

01:07PM 5 SO MR. FISHER, IF WE COULD PUT THAT ON THE SCREEN.

01:07PM 6 SO YOU EXPLAINED TO US THIS IDEA OF EXTENSIBILITY AND HOW  
01:07PM 7 WORD CHOICES MIGHT FIT INTO THAT. BUT YOU ALSO TALKED SOMEWHAT  
01:07PM 8 ABOUT THE WORD SEQUENCING; IS THAT RIGHT?

01:07PM 9 A. YES.

01:07PM 10 Q. OKAY. SO WE HAVE A DEMONSTRATIVE WE PREPARED. CAN WE PUT  
01:07PM 11 UP SLIDE TWO. AND IN THE CONTEXT OF THIS WORD SEQUENCING FOR  
01:08PM 12 THE COMMAND CREATIONS, CAN YOU EXPLAIN TO US WHAT WE ARE  
01:08PM 13 LOOKING AT HERE?

01:08PM 14 A. SO AS I MENTIONED, THE COMMANDS TEND TO BE -- THE COMMANDS  
01:08PM 15 ARE ARRANGED IN A HIERARCHY. THERE IS A PARENT COMMAND WHICH  
01:08PM 16 IS THE FIRST OF THE COMMANDS, AND THEN THE COMMAND THAT DEPENDS  
01:08PM 17 ON IT, THE CHILD, AND THEN COMMAND THAT IS DEPEND ON THAT, THE  
01:08PM 18 GRANDCHILD, OR THE GREAT GRANDCHILD COMMANDS. AND IT'S THE  
01:08PM 19 HIERARCHY, THEY TEND TO BE GROUPED IN AREAS WHERE THEY ARE  
01:08PM 20 RELEVANT AND RELATED.

01:08PM 21 Q. IF WE GO TO SLIDE THREE, CAN YOU TELL US WHAT WE ARE  
01:08PM 22 LOOKING AT HERE ON SLIDE THREE?

01:08PM 23 A. THIS IS AN EXAMPLE OF A COMMAND IN THE COMMAND-LINE  
01:08PM 24 INTERFACE, DEMONSTRATING THE HIERARCHY. FOR EXAMPLE, IN THIS  
01:08PM 25 CASE, THE PARENT COMMAND IS SHOW. THE CHILD COMMAND IS

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01:08PM 1 INVENTORY. SO SHOW INVENTORY. INVENTORY IS SOMETHING THAT YOU  
01:08PM 2 SHOW.

01:08PM 3 AND THE GRANDCHILD COMMAND IS INFORMATION ABOUT WHAT IT IS  
01:09PM 4 ABOUT THE INVENTORY THAT YOU ARE SHOWING, WHETHER IT'S DETAILED  
01:09PM 5 INFORMATION OR RAW INFORMATION, OR I COULD CONCEIVABLY ADD  
01:09PM 6 ADDITIONAL KEY WORDS, OR EVEN ADDITIONAL LEVELS IN THE  
01:09PM 7 HIERARCHY, IF NECESSARY.

01:09PM 8 Q. SO YOU TALKED ABOUT SHOW AS BEING THE PARENT?

01:09PM 9 A. YES.

01:09PM 10 Q. ARE THERE OTHER THINGS YOU COULD SHOW THEN BESIDES  
01:09PM 11 INVENTORY?

01:09PM 12 A. YES, YES, THERE ARE OTHER ELEMENTS, OTHER THINGS YOU MIGHT  
01:09PM 13 WANT TO SHOW. YOU COULD SHOW THE VERSION OF THE BOX, YOU COULD  
01:09PM 14 SHOW THE INTERFACES OF THE BOX, YOU CAN SHOW A LIST OF THE  
01:09PM 15 ROUTES, YOU CAN SHOW THE BRIDGING TABLE, THESE WOULD ALL BE  
01:09PM 16 OTHER COMMANDS, OTHER CHILDREN IN THAT HIERARCHY.

01:09PM 17 Q. SO ARE THE COMMAND HIERARCHIES THAT YOU JUST DESCRIBED, ARE  
01:09PM 18 THOSE IMPORTANT IN THE CREATION OF THE COMMANDS THEMSELVES?

01:09PM 19 A. THE HIERARCHIES ARE VERY IMPORTANT.

01:09PM 20 Q. AND CAN YOU EXPLAIN TO US WHY THAT'S THE CASE?

01:09PM 21 A. THEY GROUP LIKE AND SIMILAR COMMANDS TOGETHER MAKING IT  
01:10PM 22 EASIER TO FIND FUNCTIONALITY, MAKING IT MORE ACCESSIBLE AND  
01:10PM 23 USEABLE AND ALLOWING PEOPLE TO FIND MORE COMMANDS THEY NEED,  
01:10PM 24 MORE QUICKLY ACCESS THE POWERFUL FUNCTIONS OF THE DEVICE.

01:10PM 25 Q. WHAT DO YOU MEAN WHEN YOU SAY TO MORE QUICKLY FIND THE



DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:10PM 1 COMMANDS THAT THEY NEED?

01:10PM 2 A. THAT IT'S MORE USEABLE, MORE FRIENDLY. WHEN YOU'RE USING

01:10PM 3 THE BOX, THE THINGS, THE COMMANDS SHOULD BE ARRANGED AND

01:10PM 4 GROUPED IN A LOGICAL, EASY TO FIND ORDER.

01:10PM 5 Q. SO NOW, I WANT TO GO BACK TO YOUR PARSER-POLICE MANIFESTER,

01:10PM 6 WHICH I BELIEVE IS EXHIBIT 851, AND LOOK AT THAT -- I KEEP

01:10PM 7 CALLING IT THE LAST SECTION BUT I'M ACTUALLY WRONG. I THINK

01:10PM 8 IT'S THE NEXT TO LAST SECTION. IT'S CALLED SYNTAX DESIGN

01:10PM 9 GUIDELINES.

01:11PM 10 DO YOU SEE THAT?

01:11PM 11 A. YES.

01:11PM 12 Q. AND YOU HAVE A LIST OF TEN THERE; IS THAT RIGHT?

01:11PM 13 A. SORRY, A LIST OF --

01:11PM 14 Q. THERE'S A LIST --

01:11PM 15 A. THERE'S A LIST OF TEN GUIDELINES, YES.

01:11PM 16 Q. OKAY. SO, ARE THESE GUIDELINES ALWAYS FOLLOWED?

01:11PM 17 A. THEY ARE NOT ALWAYS FOLLOWED.

01:11PM 18 Q. AND CAN YOU GIVE US SOME EXAMPLES OF THAT?

01:11PM 19 A. ONE OF THE EXAMPLES I HAVE IN SECTION 2 IN THE CASE WHERE

01:11PM 20 THE GUIDELINES WEREN'T FOLLOWED, I ILLUSTRATE AS A BAD EXAMPLE

01:11PM 21 OF FAILING TO THINK IN AN EXTENSIBLE WAY.

01:11PM 22 Q. AND IF WE CAN PUT THAT, BLOW THAT SECTION UP, MR. FISHER.

01:11PM 23 SECTION 2 -- OKAY. IS THIS THE SECTION YOU ARE TALKING ABOUT?

01:11PM 24 A. YES.

01:11PM 25 Q. CAN YOU EXPLAIN TO ME WHAT THE GOOD AND BAD EXAMPLE IS

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:11PM 1 THERE?

01:11PM 2 A. SO, ISDN IS A TECHNOLOGY, A DIGITAL COMMUNICATIONS  
01:11PM 3 TECHNOLOGY. AND THIS COMMAND, THE PERSON WRITING THE ISDN,  
01:12PM 4 COMMAND CREATED TWO CHILDREN IN THE DEBUG HIERARCHY,  
01:12PM 5 SPECIFICALLY ISDN, Q931 AND ISDN Q921 WHICH ARE DIFFERENT  
01:12PM 6 ASPECTS OF THE ISDN PROTOCOL.

01:12PM 7 AND WHAT THEY DID WAS THEY MADE EACH, EVEN -- THE BETTER  
01:12PM 8 WAY TO HAVE DONE IT WOULD HAVE BEEN TO TAKE ISDN THE CHILD AND  
01:12PM 9 INTRODUCE Q921 AND Q931 AS CHILDREN SO THAT THE HIERARCHY WOULD  
01:12PM 10 BE GROUPED TOGETHER.

01:12PM 11 I RELATED ISDN COMMANDS, WOULD BE UNDER A HIERARCHY INSTEAD  
01:12PM 12 OF A BROADER GROUP. THIS WOULD MAKE THE ISDN COMMANDS EASIER  
01:12PM 13 TO FIND IF THEY WERE GROUPED AS A HIERARCHY.

01:12PM 14 Q. IS THAT THE CASE IN THE CISCO CLI?

01:12PM 15 A. IT IS NOT. IT IS NOT.

01:12PM 16 AGAIN, THE ENGINEER WAS ABLE TO USE THEIR OWN CREATIVITY  
01:12PM 17 AND JUDGMENT IN MAKING THE COMMANDS, AND THE AESTHETIC WOULD  
01:13PM 18 HAVE LEAD US TO SEPARATE OR TO THINK EXTENSIBLY WAS THE  
01:13PM 19 GUIDELINE, THE GUIDELINE WOULD BE TO THINK EXTENSIBLY. AND IN  
01:13PM 20 THIS CASE I'M AFRAID IT WAS OVERLOOKED.

01:13PM 21 Q. NOW I WANT TO TALK ABOUT ANOTHER ONE. IF WE GO TO NUMBER  
01:13PM 22 FOUR IN YOUR LIST WHICH IS ON THE NEXT PAGE?

01:13PM 23 A. YES.

01:13PM 24 Q. IT SAYS WATCH FOR COLLISIONS; DO YOU SEE THAT?

01:13PM 25 A. I DO.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:13PM 1 Q. CAN YOU EXPLAIN TO ME WHAT THAT IS?

01:13PM 2 A. OKAY. SO LET'S GO BACK TO THE COMMAND SHOW, FOR EXAMPLE.  
01:13PM 3 THE COMMAND SHOW IS ONE OF THE MOST COMMON COMMANDS THAT WE  
01:13PM 4 TYPE IN THE USER INTERFACE.

01:13PM 5 Q. AND LET ME STOP YOU THERE.

01:13PM 6 WHEN YOU SAY THE USER INTERFACE, WHAT USER INTERFACE ARE  
01:13PM 7 YOU REFERRING TO?

01:13PM 8 A. THAT WOULD BE THE COMMAND-LINE INTERFACE.

01:13PM 9 Q. FOR WHOM?

01:13PM 10 A. THE CISCO DEVICES, THE CISCO IOS AND RELATED OPERATING  
01:13PM 11 SYSTEMS.

01:13PM 12 THE SHOW COMMAND COULD BE ABBREVIATED AS SH, BECAUSE AS  
01:14PM 13 LONG AS YOU TYPE ENOUGH CHARACTERS TO MAKE THE WORD UNIQUE, IT  
01:14PM 14 WOULD BE ACCEPTED.

01:14PM 15 SO IF, FOR EXAMPLE, AN ENGINEER WANTED TO INTRODUCE A NEW  
01:14PM 16 COMMAND, SHOW CASE, THIS WOULD CAUSE A PROBLEM. THIS WOULD BE  
01:14PM 17 A COLLISION BECAUSE NOW AN ENGINEER THAT WOULD TYPE SHOW WOULD  
01:14PM 18 GET AN ERROR BECAUSE THE PARSER WOULD SAY WELL, I DON'T KNOW  
01:14PM 19 WHETHER YOU MEAN SHOW OR SHOW CASE.

01:14PM 20 SIMILARLY, THE ABBREVIATED FORM SH, IF THEY CREATED A TOP  
01:14PM 21 LEVEL COMMAND CALLED SHARE, NOW CUSTOMERS USED TO TYPING JUST  
01:14PM 22 SH WOULD NOW GET AN ERROR SAYING WELL, I DON'T KNOW WHETHER YOU  
01:14PM 23 MEAN SHOW OR SHARE.

01:14PM 24 THOSE ARE WHAT WE WOULD CALL COLLISIONS IN THE PARSER,  
01:14PM 25 MEANING IT'S A POINT WHERE THE COMMAND CAN BE CONFUSED WITH

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:14PM 1 ANOTHER COMMAND BECAUSE THE LETTERS OVERLAP.

01:14PM 2 SO THIS WAS SOMETHING TO AVOID.

01:14PM 3 Q. SO HOW WOULD THAT GO INTO THE COMMAND CREATION ITSELF, THAT  
01:15PM 4 CONCEPT?

01:15PM 5 A. THIS WOULD BE PART OF THE ENGINEER EXERCISING THEIR  
01:15PM 6 JUDGMENT AND UNDERSTANDING THINKING ABOUT BOTH EXTENSIBILITY  
01:15PM 7 AND BACKWARDS COMPATIBILITY WITH THE EXISTING COMMANDS IN THE  
01:15PM 8 DEVICE.

01:15PM 9 Q. DO YOU KNOW WHETHER THERE ARE ANY COLLISIONS IN THE CISCO  
01:15PM 10 CLI?

01:15PM 11 A. THERE ARE PROBABLY SOME BECAUSE IT'S -- THERE'S NO --  
01:15PM 12 THERE'S NOBODY EXPLICITLY STOPPING -- THERE'S NOBODY THAT CAN  
01:15PM 13 STOP AN ENGINEER FROM DOING THAT.

01:15PM 14 Q. NOW I WANT TO MOVE ON TO ANOTHER ONE IN YOUR LIST, THE  
01:15PM 15 NUMBER SIX. DO YOU SEE THAT?

01:15PM 16 A. YES.

01:15PM 17 Q. CAN YOU TELL US WHAT YOU ARE TALKING ABOUT HERE.

01:15PM 18 A. SO THE IDEA IS, AS A GUIDELINE, THE ENGINEER WHEN THEY ARE  
01:16PM 19 CREATING A COMMAND, HAVE TO PICK WHERE THEY ARE IN THE  
01:16PM 20 HIERARCHY, THINK EXTENSIBLY, AVOID COLLISIONS, BUT THEY ALSO  
01:16PM 21 NEED TO THINK ABOUT WHAT WORD THEY CHOOSE. AND THAT COULD BE A  
01:16PM 22 MATTER OF SOME DEBATE.

01:16PM 23 AND THE ENCOURAGEMENT HERE WAS TO, WHEN PICKING WORDS, WHEN  
01:16PM 24 IT MADE SENSE, THEY SHOULD PICK SOMETHING THAT THE INDUSTRY  
01:16PM 25 WOULD RECOGNIZE.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:16PM 1 FOR EXAMPLE, THERE'S A CONCEPT CALLED MAXIMUM TRANSMISSION  
01:16PM 2 UNIT WHICH IS THE LARGEST SIZE PACKET YOU CAN SEND. SO THE  
01:16PM 3 PROPER NAME IS MAXIMUM TRANSMISSION UNIT SO THAT COULD BE A  
01:16PM 4 WORD, BUT SINCE MTU IS A RECOGNIZED ABBREVIATION, WE SUGGEST IF  
01:16PM 5 YOU CAN PICK SOMETHING THAT'S RECOGNIZED, THAT WOULD BE BETTER  
01:16PM 6 THAN PICKING SOMETHING THAT'S HARDER TO RECOGNIZE.

01:16PM 7 Q. NOW IN YOUR ANSWER, YOU SAID THAT THE CHOICE, EVEN IN THIS  
01:16PM 8 CONTEXT IS SOMEWHAT OPEN TO DEBATE. CAN YOU TELL ME WHAT YOU  
01:17PM 9 MEAN BY THAT?

01:17PM 10 A. THE ENGINEER COULD -- IN THAT CASE THEY COULD PICK EITHER  
01:17PM 11 ONE. THEY COULD PICK A DIFFERENT WORD IF THEY THINK THAT  
01:17PM 12 THEY'VE GOT A NEW CONCEPT OR THEY'VE GOT A DIFFERENT AUDIENCE  
01:17PM 13 THAT WOULDN'T USE THAT LANGUAGE.

01:17PM 14 THERE ARE SITUATIONS WHERE CISCO'S CREATED TERMINOLOGY AND  
01:17PM 15 INTRODUCED IT TO THE CLI WHEN THERE WASN'T SOMETHING IN THE  
01:17PM 16 INDUSTRY THAT MADE SENSE.

01:17PM 17 Q. NOW EVEN IN THE CONTEXT, YOU USED THE MAXIMUM TRANSMISSION  
01:17PM 18 CONTEXT?

01:17PM 19 A. YES.

01:17PM 20 Q. I WANT TO GO BACK TO YOUR DISCUSSION JUST A MINUTE AGO  
01:17PM 21 ABOUT THE HIERARCHY IN THE WORD SEQUENCE?

01:17PM 22 A. YES.

01:17PM 23 Q. COULD YOU CREATE A MAXIMUM OR MTU HIERARCHY?

01:17PM 24 A. IN FACT, BACK WHEN CISCO ONLY SUPPORTED THE IP PROTOCOL,  
01:17PM 25 THE PARENT COMMAND WAS MTU IN THE EARLY DAYS, THE COMMAND MTU

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01:17PM 1 IS IN FACT A PARENT-LEVEL COMMAND. BUT WHEN WE STARTED  
01:18PM 2 INTRODUCING NEW PROTOCOLS, IPV6, IPX, APPLE TALK, WE REALIZED  
01:18PM 3 THE MTU MIGHT BE DIFFERENT FOR THEM.

01:18PM 4 SO IN FACT, WE GOT RID OF MTU AS A TOP LEVEL KEY WORD AND  
01:18PM 5 INSTEAD USED A NEW TOP LEVEL KEY WORD FOR THE PROTOCOL, IP OR  
01:18PM 6 IPV6, AND THEN MADE MTU IN THAT CASE, THE CHILD OF THAT  
01:18PM 7 COMMAND.

01:18PM 8 SO IN FACT, YES, THERE ARE CASES WHERE YOU NEED TO DECIDE  
01:18PM 9 AS AN ENGINEER IF IT MAKES SENSE TO ADD A NEW NODE INTO THE  
01:18PM 10 HIERARCHY, IT'S NOT JUST A MATTER OF PICKING THE WORDS BUT  
01:18PM 11 PICKING THE LOGICAL PLACE TO PLACE THE WORDS IN THE HIERARCHY  
01:18PM 12 Q. SO THEN THE NEXT ONE DOWN, NUMBER SEVEN. FIRST SENTENCE  
01:18PM 13 THERE IS DO NOT USE CODE NAMES IN COMMANDS; DO YOU SEE THAT?

01:18PM 14 A. YES.

01:18PM 15 Q. AND WHAT ARE YOU REFERRING TO THERE?

01:18PM 16 A. SOMETIMES WHEN DEVELOPING PRODUCTS AT CISCO, WE MAY HAVE  
01:19PM 17 INTERNAL CODE NAMES FOR HARDWARE OR PROTOCOL.

01:19PM 18 AND BEFORE WE'VE DECIDED WHAT WE ARE GOING TO CALL THEM TO  
01:19PM 19 THE PUBLIC, WE WOULD USE SOME OF THOSE INTERNAL CODE NAMES,  
01:19PM 20 SOMETIMES THE CODE WOULD HAVE TO BE WRITTEN BEFORE THE PROPER  
01:19PM 21 NAME WAS DECIDED. SO SOMETIMES THE CODE NAMES WOULD BE IN THE  
01:19PM 22 USER INTERFACE.

01:19PM 23 AND THIS WAS A REMINDER TO ENGINEERS, IF YOU USED A CODE  
01:19PM 24 NAME, GO BACK AND MAKE SURE IT'S CHANGED TO SOMETHING OTHER  
01:19PM 25 THAN A CODE NAME BEFORE IT GETS TO CUSTOMERS.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:19PM 1 Q. SO NOW I WANT TO GO TO THE LAST ONE ON YOUR LIST, NUMBER  
01:19PM 2 TEN. IT SAYS COMMAND SHOULD TEND TO BE SELF EXPLANATORY SO  
01:19PM 3 THAT A RELATIVELY KNOWLEDGEABLE USER CAN FIGURE OUT THE COMMAND  
01:19PM 4 FUNCTION FROM THE MANUALS -- NO, I SKIPPED A LINE, SORRY. THE  
01:19PM 5 COMMAND FUNCTION FROM THE COMMAND AND ONLINE HELP WITHOUT  
01:20PM 6 HAVING IT SCURRY OFF TO THE MANUALS; DO YOU SEE THAT?

01:20PM 7 A. RIGHT.

01:20PM 8 Q. CAN YOU TELL ME WHAT YOU MEANT THERE?

01:20PM 9 A. SO PART OF THIS IS ABOUT, YOU KNOW, CHOOSING THE HIERARCHY,  
01:20PM 10 GROUPING STUFF TOGETHER, EXERCISING JUDGMENT AND CREATIVITY,  
01:20PM 11 AND ARRANGING LIKE CONCEPTS TOGETHER.

01:20PM 12 SO THE IDEA IS THAT LOOKING AT A COMMAND, YOU SHOULD BE  
01:20PM 13 ABLE TO, BASED ON YOUR KNOWLEDGE OF THE DESIGN AESTHETIC, THE  
01:20PM 14 HIERARCHY AND THE TYPICAL SEQUENCE AND ORGANIZATION OF COMMANDS  
01:20PM 15 USED BY CISCO, THAT THE CUSTOMER COULD LOOK AT THAT COMMAND AND  
01:20PM 16 FIGURE OUT BASED ON THEIR EXPERIENCE IN USING COMMANDS LIKE IT,  
01:20PM 17 WHAT THAT COMMAND SHOULD DO. IT'S A PRINCIPLE OF CONSISTENCY  
01:20PM 18 AND USABILITY

01:20PM 19 Q. SO THEN I WANT TO LOOK AT THE NEXT SENTENCE THERE. IT  
01:20PM 20 SAYS, WHAT CONSTITUTES SELF EXPLANATORY WILL VARY BY YOUR  
01:20PM 21 TARGET AUDIENCE, SO BE PREPARED TO DEFEND THAT POINT; DO YOU  
01:20PM 22 SEE THAT?

01:21PM 23 A. I DO.

01:21PM 24 Q. WHAT'S THAT REFERRING TO IN THE GUIDELINES?

01:21PM 25 A. SO THE IDEA IS THAT, AGAIN, WE WANT TO HAVE THE COMMAND

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01:21PM 1 SELF EXPLANATORY.

01:21PM 2 SOMEBODY LOOKING AT A COMMAND LIKE FORWARD PEAK CELL RATE  
01:21PM 3 CLP1 MIGHT SAY, I DON'T UNDERSTAND WHAT THAT MEANS. BUT  
01:21PM 4 SOMEONE WHO IS FAMILIAR ABOUT ATM, THE ASYNCHRONOUS TRANSFER  
01:21PM 5 PROTOCOL, WILL IMMEDIATELY KNOW WHAT THAT MEANS. THEY ARE THE  
01:21PM 6 AUDIENCE.

01:21PM 7 SO THE COMMAND THERE IS COMPLETELY SELF EXPLANATORY TO  
01:21PM 8 SOMEBODY FAMILIAR WITH ATM, BUT MAY NOT BE TO OTHER PEOPLE.

01:21PM 9 SO THE POINT WAS TO TELL PEOPLE TO CONSIDER THEIR AUDIENCE  
01:21PM 10 IN MAKING THE COMMAND, AND ALSO TO OUR VIEWERS TO CONSIDER THE  
01:21PM 11 AUDIENCE WHEN CRITIQUING A COMMAND.

01:21PM 12 Q. ARE THERE MULTIPLE POTENTIAL AUDIENCES FOR A GIVEN COMMAND?

01:21PM 13 A. THERE COULD BE MULTIPLE POTENTIAL AUDIENCES FOR A GIVEN  
01:21PM 14 COMMAND.

01:21PM 15 Q. AND WHY IS THAT?

01:22PM 16 A. WE HAVE A BROAD RANGE OF USES AND FUNCTIONS OF THE CISCO  
01:22PM 17 DEVICE. THERE ARE FUNCTIONS THAT ARE USED, DIFFERENT PROTOCOLS  
01:22PM 18 AND DIFFERENT PHYSICAL INTERFACES.

01:22PM 19 THERE'S LOTS OF FEATURES, LOTS OF DIFFERENT KINDS OF  
01:22PM 20 CUSTOMERS, LOTS OF WAYS THE PRODUCT IS USED, SO THESE THINGS  
01:22PM 21 ALL HAVE TO BE CONSIDERED BY THE DESIGNER.

01:22PM 22 Q. NOW I WANT TO GO TO THE LAST SECTION WHICH IS THE LAST  
01:22PM 23 SECTION THIS TIME, CHANGING SYNTAX.

01:22PM 24 A. YES.

01:22PM 25 Q. AND IN THAT FIRST SENTENCE IT SAYS CHANGING AN EXISTING



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01:22PM 1 SYNTAX IS USUALLY A BAD IDEA; DO YOU SEE THAT?

01:22PM 2 A. YES.

01:22PM 3 Q. NOW YOU'VE TALKED SEVERAL TIMES NOW ABOUT THE NEED TO  
01:22PM 4 MAINTAIN CONSISTENCY?

01:22PM 5 A. YES.

01:22PM 6 Q. DOES THIS HAVE ANYTHING TO DO WITH THAT?

01:22PM 7 A. YES, IF YOU CHANGE A COMMAND, THAT COULD BE SURPRISING TO  
01:22PM 8 CUSTOMERS.

01:22PM 9 IF YOU SUDDENLY DECIDE THAT YOU WANT TO DO THINGS IN A  
01:22PM 10 DIFFERENT WAY, CUSTOMERS WILL BE DISORIENTED, COMMANDS THEY ARE  
01:23PM 11 USED TO MAY NOT WORK. THINGS THEY COMMITTED TO MUSCLE MEMORY  
01:23PM 12 TO TYPING NO LONGER WORK THE WAY THEY ARE EXPECTING, AND THAT  
01:23PM 13 COULD MAKE THEM UPSET.

01:23PM 14 Q. SO LET'S -- I JUST WANT TO BE CLEAR ON THIS POINT, WHEN YOU  
01:23PM 15 ARE TALKING ABOUT CONSISTENCY, CONSISTENCY WITH RESPECT TO  
01:23PM 16 WHAT?

01:23PM 17 A. CONSISTENCY WITH THE -- CONSISTENCY IN THE CISCO COMMAND  
01:23PM 18 LINE AND USER INTERFACE.

01:23PM 19 Q. OKAY. SO YOU MEAN WHATEVER CISCO DECIDED TO DO BEFORE?

01:23PM 20 A. YES. THE USER INTERFACE BUILDS ON ITSELF. THE USER  
01:23PM 21 INTERFACE IS A CONSTANTLY GROWING BODY OF WORK BASED ON THE  
01:23PM 22 CODING AND EXPERIENCE THAT WE GET.

01:23PM 23 Q. NOW I WANT TO CHANGE GEARS A LITTLE BIT AND TALK ABOUT YOUR  
01:23PM 24 PERSONAL EXPERIENCE IN AUTHORIZING COMMAND?

01:24PM 25 A. OKAY.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:24PM 1 Q. HAVE YOU HAD SUCH EXPERIENCE?

01:24PM 2 A. I HAVE.

01:24PM 3 Q. AND CAN YOU TELL US WHAT THAT IS?

01:24PM 4 A. I DEVELOPED THE SHOW INVENTORY COMMAND.

01:24PM 5 Q. AND WHEN WAS THAT?

01:24PM 6 A. IT WAS AROUND 2002 AND 2003.

01:24PM 7 Q. IT YOU TELL US WHAT THE SHOW INVENTORY COMMAND DOES?

01:24PM 8 A. SO A PIECE OF CISCO HARDWARE INSIDE A CHASSIS USUALLY HAS  
01:24PM 9 SEVERAL PIECES OF HARDWARE INSIDE IT, INCLUDING POSSIBLY A CPU,  
01:24PM 10 A COMMUNICATIONS MODULE, SO THERE'S A COLLECTION OF HARDWARE,  
01:24PM 11 ALL OF WHICH HAS PART NUMBERS AND SERIAL NUMBERS. SO THE SHOW  
01:24PM 12 INVENTORY COMMAND SHOWS AN INVENTORY OF ALL OF THOSE DEVICES  
01:24PM 13 CONTAINED INSIDE THE CISCO HARDWARE.

01:24PM 14 Q. SO NOW, I WANT TO TURN TO EXHIBIT 3195 IN YOUR BINDER,  
01:24PM 15 PLEASE. YOU WILL SEE IT BEHIND THE TAB, IT'S KIND OF TOWARDS  
01:25PM 16 THE BACK. SO TAKE A LOOK AND THEN WHEN YOU GET A CHANCE, TELL  
01:25PM 17 ME WHAT THIS DOCUMENT IS, PLEASE.

01:25PM 18 A. THIS IS AN EARLY DRAFT OF A FUNCTIONAL SPECIFICATION FOR  
01:25PM 19 THE SHOW INVENTORY COMMAND.

01:25PM 20 Q. AND DID YOU PREPARE THIS?

01:25PM 21 A. I DID PREPARE THIS DOCUMENT.

01:25PM 22 Q. AND WHY IS A DOCUMENT LIKE THIS PREPARED WHEN YOU'RE  
01:25PM 23 DEVELOPING COMMANDS?

01:25PM 24 A. BEFORE YOU WRITE CODE YOU SHOULD BE WRITING A SPECIFICATION  
01:25PM 25 FOR HOW THE CODE GOES, BOTH TO GET FEEDBACK FROM PEOPLE THAT

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:25PM 1 WILL BE USING IT AND TO ULTIMATELY SERVE AS THE GUIDE FOR THE  
01:25PM 2 PEOPLE WRITING THE CODE.

01:25PM 3 Q. AND IS THIS THE KIND OF THING THAT IS GENERALLY PREPARED AT  
01:25PM 4 CISCO?

01:25PM 5 A. YES, WHEN CREATING A COMMAND, YOU WILL GENERALLY WRITE THE  
01:25PM 6 AUTHOR OR THE ORIGINATOR WILL GENERATE A FUNCTIONAL  
01:25PM 7 SPECIFICATION FOR THE COMMAND.

01:25PM 8 Q. AND SO AT THIS POINT I WOULD MOVE 3195 INTO EVIDENCE,  
01:25PM 9 YOUR HONOR?

01:25PM 10 MR. FERRALL: NO OBJECTION.

01:26PM 11 THE COURT: IT WILL BE ADMITTED.

01:26PM 12 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 3195, HAVING BEEN  
01:26PM 13 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
01:26PM 14 EVIDENCE.)

01:26PM 15 BY MR. NELSON:

01:26PM 16 Q. NOW IF WE GO DOWN A LITTLE BIT ON THE FIRST PAGE THERE'S A  
01:26PM 17 HEADING THERE CALLED PROPOSED COMMAND; DO YOU SEE THAT?

01:26PM 18 A. I DO.

01:26PM 19 Q. AND CAN YOU TELL US WHAT THE PURPOSE OF THIS SECTION IS?

01:26PM 20 A. THIS SECTION IS TO SHOW THE ACTUAL PROPOSED COMMAND FOR THE  
01:26PM 21 COMMAND-LINE INTERFACE THAT WOULD PROVIDE THE INVENTORY  
01:26PM 22 INFORMATION THAT I DESCRIBED EARLIER.

01:26PM 23 Q. NOW CAN YOU JUST EXPLAIN TO US, PUT YOURSELF BACK IN TIME,  
01:26PM 24 WELL ACTUALLY I DON'T EVEN KNOW IF I ASKED YOU THAT, WHEN DID  
01:26PM 25 YOU CREATE THE SHOW INVENTORY COMMAND?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:26PM 1 A. THIS WAS AROUND 2002 OR 2003.

01:26PM 2 Q. SO PUT YOURSELF BACK THERE. CAN YOU JUST DESCRIBE FOR US  
01:26PM 3 GENERALLY WHAT THE PROCESS WAS TO CREATE THIS COMMAND?

01:26PM 4 A. SO WE KNEW WE HAD TO GET THIS LIST OF INFORMATION WITH  
01:26PM 5 SERIAL NUMBERS AND DESCRIPTIONS, AND WE HAD TO FIND A WAY TO  
01:27PM 6 PRESENT THAT INFORMATION TO THE CUSTOMERS AND THE NATURAL PLACE  
01:27PM 7 IN THE HIERARCHY TO DISPLAY INFORMATION WOULD BE THE SHOW  
01:27PM 8 COMMAND.

01:27PM 9 Q. AND WHY WAS THAT?

01:27PM 10 A. THE SHOW COMMAND IS A COMMAND THAT TYPICALLY PROVIDES  
01:27PM 11 INFORMATION TO THE END USER ABOUT INTERFACES, ABOUT THE  
01:27PM 12 VERSION, ABOUT THE CONFIGURATION, SO IT SEEMED LIKE A NATURAL  
01:27PM 13 PLACE TO PUT INFORMATION ABOUT THE COLLECTION OF HARDWARE TO BE  
01:27PM 14 DISPLAYED.

01:27PM 15 Q. DID YOU IN CONNECTION WITH DEVELOPING THE COMMAND, DID YOU  
01:27PM 16 EVER CONSIDER PUTTING IT IN A DIFFERENT HIERARCHY OR MAYBE  
01:27PM 17 CREATING ITS OWN?

01:27PM 18 A. AT THE TIME WE DIDN'T. IN RETROSPECT, WE MIGHT HAVE MADE A  
01:27PM 19 TOP-LEVEL COMMAND CALLED INVENTORY DEDICATED TO ALL TASKS  
01:27PM 20 RELATED TO INVENTORY. BUT "SHOW" REALLY SEEMED LIKE THE  
01:27PM 21 SENSIBLE PLACE TO PUT IT.

01:27PM 22 Q. OKAY. NOW, LET'S TALK ABOUT THE SELECTION OF INVENTORY AS  
01:28PM 23 A TERM. WHERE DID THAT COME FROM?

01:28PM 24 A. WHEN YOU THINK ABOUT A COLLECTION OF HARDWARE WITH PART  
01:28PM 25 NUMBERS AND SERIAL NUMBERS, IT'S KIND OF LIKE AN INVENTORY OF

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:28PM 1

THINGS.

01:28PM 2

Q. WHY DO YOU SAY THAT?

01:28PM 3

A. IT'S JUST, YOU'VE GOT PART NUMBERS AND SERIAL NUMBERS

01:28PM 4

COLLECTED TOGETHER AND IT'S AN IMPORTANT PART OF ASSET

01:28PM 5

MANAGEMENT TO KNOW WHAT YOUR HARDWARE PART NUMBERS ARE AND IT

01:28PM 6

WOULD BE PART OF TAKING INVENTORY TO KNOW THAT. SO IT WAS

01:28PM 7

JUST -- IT WAS A ---IT WAS A NAME WE SETTLED ON AFTER SOME

01:28PM 8

DEBATE.

01:28PM 9

Q. SO DID YOU CONSIDER ANY ALTERNATIVES TO INVENTORY WHEN YOU

01:28PM 10

WERE COMING UP WITH THIS COMMAND?

01:28PM 11

A. WE CONSIDERED A COUPLE OF DIFFERENT COMMANDS.

01:28PM 12

Q. AND IF WE SHOW SLIDE FIVE HERE, IN FACT WAS INVENTORY THE

01:28PM 13

FIRST WORD YOU CONSIDERED?

01:28PM 14

A. INVENTORY WAS NOT THE FIRST WORD WE CONSIDERED.

01:28PM 15

Q. AND WHY WAS THAT?

01:28PM 16

A. WE THOUGHT THERE WERE BETTER CHOICES THAT WE COULD HAVE

01:28PM 17

BESIDES INVENTORY.

01:28PM 18

Q. AND WHAT DO YOU MEAN BETTER CHOICES?

01:29PM 19

A. WE THOUGHT THAT THEY MIGHT BETTER DESCRIBE WHAT WAS GOING

01:29PM 20

ON.

01:29PM 21

Q. LIKE WHAT?

01:29PM 22

A. WELL, WE LOOKED AT SHOW SERIAL BECAUSE IT WAS SERIAL

01:29PM 23

NUMBERS AND THE SERIAL NUMBERS WERE VERY IMPORTANT, SO SHOW

01:29PM 24

SERIAL SEEMED LIKE A NATURAL THING TO DO.

01:29PM 25

Q. AND WHY DID YOU PICK THAT?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:29PM 1 A. WE ALSO HAVE SERIAL COMMUNICATION INTERFACES ON THE DEVICE  
01:29PM 2 AND WE THOUGHT IT MIGHT BE CONFUSING TO HAVE A SHOW COMMAND  
01:29PM 3 THAT TALKS ABOUT SERIAL WHEN IN FACT WE HAVE SERIAL INTERFACES  
01:29PM 4 SO WE DISCARDED THAT IDEA.

01:29PM 5 Q. WAS THERE ANYTHING ELSE THAT YOU RECALL?

01:29PM 6 A. WE THOUGHT SHOW HARDWARE BECAUSE IT'S AN INVENTORY OF THE  
01:29PM 7 PHYSICAL HARD IN THE DEVICE.

01:29PM 8 Q. AND WHY DIDN'T YOU PICK THAT?

01:29PM 9 A. SHOW HARDWARE WAS ALREADY BEING USED TO DISPLAY VERSION  
01:29PM 10 INFORMATION.

01:29PM 11 Q. WHAT DO YOU MEAN WHEN YOU SAY VERSION INFORMATION?

01:29PM 12 A. THE SOFTWARE VERSION, THE SOFTWARE VERSION. WHEN YOU --  
01:29PM 13 THE WHICH COMMAND SHOW HARDWARE TELLS YOU ACTUALLY THE SOFTWARE  
01:29PM 14 RUNNING ON THE HARDWARE. IT WAS A HISTORICAL CHOICE.

01:29PM 15 AGAIN, AND I DIDN'T MAKE THAT CHOICE, BUT THAT'S -- IT WAS  
01:29PM 16 A COLLISION, SO WE COULDN'T DO IT.

01:30PM 17 Q. SO SHOW HARDWARE TELLS YOU ABOUT THE SOFTWARE?

01:30PM 18 A. SHOW HARDWARE TELLS YOU ABOUT THE SOFTWARE RUNNING ON THE  
01:30PM 19 HARDWARE.

01:30PM 20 Q. GOT YA. DOES SOFTWARE RUN ANYWHERE ELSE?

01:30PM 21 A. I'VE NEVER SEEN THE SOFTWARE RUN ANYWHERE ELSE.

01:30PM 22 Q. OKAY. ALL RIGHT. SO ANYTHING ELSE YOU CONSIDERED WHEN YOU  
01:30PM 23 WERE GOING THROUGH SHOW INVENTORY?

01:30PM 24 A. WELL, IT TURNS OUT THAT THE ELEMENTS OF THE INVENTORY WE  
01:30PM 25 WERE DISPLAYING ARE DESCRIBED IN THE IDENTITY MIB, MANAGEMENT

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:30PM 1 INFORMATION BASE, WHICH IS A DOCUMENT FROM THE INTERNET

01:30PM 2 ENGINEERING TASK FORCE, IETF. SO WE THOUGHT BECAUSE THE

01:30PM 3 IDENTITY, THE IETF CALLED THIS CONCEPT IDENTITY, THAT MAYBE WE

01:30PM 4 COULD CALL IT SHOW IDENTITY.

01:30PM 5 Q. OKAY. SO I GOT TO BREAK THAT DOWN A BIT. YOU SAID IETF?

01:30PM 6 A. IETF.

01:30PM 7 Q. OKAY. SO I DID GET THAT RIGHT, WHAT IS THAT?

01:30PM 8 A. THE IETF, THE INTERNET ENGINEERING TASK FORCE IS A

01:31PM 9 STANDARDS BODY THAT PRODUCES THE DOCUMENTS FOR ALL OF THE

01:31PM 10 PROTOCOLS THAT RUN THE INTERNET.

01:31PM 11 Q. SO JUST SO WE DON'T HAVE ANY CONFUSION, IS THIS THE

01:31PM 12 STANDARDS BODY THAT TELLS YOU HOW TO MAKE COMMANDS IN A

01:31PM 13 COMMAND-LINE INTERFACE?

01:31PM 14 A. THAT IS NOT WHAT THE STANDARDS BODY IS DEDICATED TO, NO,

01:31PM 15 IT'S COMMUNICATIONS PROTOCOLS.

01:31PM 16 Q. ARE YOU AWARE OF ANY STANDARDS BODY THAT TELLS YOU HOW YOU

01:31PM 17 SHOULD, YOU KNOW, MAKE THE COMMANDS IN A COMMAND-LINE INTERFACE

01:31PM 18 FOR NETWORKING HARDWARE?

01:31PM 19 A. I'M NOT AWARE OF ANY STANDARDS BODY THAT DOES THAT.

01:31PM 20 Q. SO THEN BACK TO THE IETF, THAT STANDARDS BODY, REMIND ME

01:31PM 21 WHAT IT DOES?

01:31PM 22 A. THEY CREATE STANDARDS FOR COMMUNICATIONS PROTOCOLS.

01:31PM 23 Q. NOW THE PROTOCOL YOU TALKED ABOUT, I THINK YOU SAID

01:31PM 24 IDENTITY MIB?

01:31PM 25 A. MIB, MANAGEMENT INFORMATION BASE, YES.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:31PM 1 Q. OKAY. WHAT'S THAT?

01:31PM 2 A. IT'S PART OF A SYSTEM CALLED SNMP, SIMPLE NETWORK  
01:32PM 3 MANAGEMENT PROTOCOL, AND IT'S A LIST OF ALL OF THE THINGS THAT  
01:32PM 4 COULD BE SAID USING THE SIMPLE NETWORK MANAGEMENT PROTOCOL.

01:32PM 5 Q. SO WHY THEN DIDN'T YOU USE THE IDENTITY TERM?

01:32PM 6 A. IT TURNS OUT THAT THE CISCO DEVICE ALSO DOES A LOT OF  
01:32PM 7 THINGS AROUND SECURITY, INCLUDING AUTHORIZATION, USER NAMES AND  
01:32PM 8 PASSWORDS, AUTHENTICATION, WHAT PEOPLE ARE ALLOWED TO DO, AND  
01:32PM 9 USUALLY THOSE SORTS OF THINGS ARE CONSIDERED IDENTITY BY THE  
01:32PM 10 SECURITY COMMITTEE.

01:32PM 11 AND BECAUSE OUR DEVICE DOES A LOT OF THINGS WITH SECURITY,  
01:32PM 12 WE THOUGHT WE DIDN'T WANT TO USE IDENTITY SO IT WOULD NOT BE  
01:32PM 13 CONFUSED WITH THE SECURITY FUNCTIONS OF THE BOX, SO WE  
01:32PM 14 DISCARDED THAT.

01:32PM 15 Q. SO ANYTHING ELSE THAT YOU RECALL CONSIDERING?

01:32PM 16 A. WELL, BECAUSE THEY WERE MODULES WE THOUGHT WE COULD SAY  
01:32PM 17 SHOW MODULE, BUT SOME PLATFORMS HAD ALREADY USED THAT TO SHOW  
01:32PM 18 OTHER TECHNICAL INFORMATION ABOUT THE MODULES.

01:32PM 19 WE THOUGHT CONTROLLERS, THESE ARE ELECTRONIC CONTROLLERS,  
01:33PM 20 BUT THAT WAS ALSO USED BY SOME PLATFORMS TO USE OTHER  
01:33PM 21 INFORMATION ABOUT HARDWARE. MAYBE EVEN SHOW DEVICES, BECAUSE  
01:33PM 22 THESE ARE DEVICES INCLUDE THE IN THE BOX.

01:33PM 23 BUT WE ULTIMATELY THOUGHT AFTER SOME HOURS OF DEBATE,  
01:33PM 24 PROBABLY 6 TO 8 HOURS WITH A GROUP OF 6 TO 8 OF US OVER A  
01:33PM 25 COUPLE OF WEEKS, WE SETTLED ON INVENTORY.



DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:33PM 1 Q. AND THE GROUP THAT YOU ARE TALKING ABOUT, WHAT GROUP IS  
01:33PM 2 THAT?

01:33PM 3 A. THAT IS -- THAT WAS MYSELF AND MY FELLOW DESIGNER, SOLOMON  
01:33PM 4 THE PEOPLE IN THE -- SOME FOLKS IN THE TECHNICAL SUPPORT GROUP  
01:33PM 5 WHO WOULD HAVE TO SUPPORT THIS AND SOME FOLKS IN THE  
01:33PM 6 DEVELOPMENT GROUP THAT WOULD BE DOING SOME OF THE CODING WORK.

01:33PM 7 Q. NOW I WANT TO CHANGE GEARS A LITTLE BIT AND IF WE GO TO  
01:33PM 8 SLIDE SEVEN, I WANT TO TALK ABOUT THE SHOW INVENTORY OUTPUT,  
01:33PM 9 OKAY?

01:33PM 10 A. YES.

01:33PM 11 Q. FIRST TELL US WHAT THE SHOW INVENTORY OUTPUT WOULD BE?

01:33PM 12 A. SO IN ADDITION TO WRITING THE SPECIFICATION FOR THE SHOW  
01:34PM 13 INVENTORY COMMAND, WE ALSO WROTE THE SPECIFICATION FOR THE  
01:34PM 14 OUTPUT AND WE WROTE THE HELP TEXT.

01:34PM 15 SO WHEN YOU TYPE THE COMMAND SHOW INVENTORY, IT PRODUCES  
01:34PM 16 SOME TEXT OUTPUT SHOWING YOU THE INVENTORY OF THE BOX. AND WE  
01:34PM 17 HAD TO DESIGN THAT.

01:34PM 18 Q. AND WHY IS THAT?

01:34PM 19 A. THAT'S JUST WHAT WE DO. THERE'S -- IT'S THE -- THE  
01:34PM 20 INFORMATION THAT WE KNOW THAT WE NEED TO SHOW, THE DEVICE NAME,  
01:34PM 21 THE PART NUMBER, THE VERSION NUMBER, THE SERIAL NUMBER, HAD TO  
01:34PM 22 BE DISPLAYED TO THE CUSTOMER IN A WAY THAT WAS EASY TO READ,  
01:34PM 23 EASY TO UNDERSTAND AND EASY TO PROCESS.

01:34PM 24 Q. SO DID YOU CREATE THE OUTPUT FOR THE SHOW INVENTORY  
01:34PM 25 COMMAND?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:34PM 1 A. OUR TEAM DEVELOPED THE OUTPUT FOR THE SHOW INVENTORY  
01:34PM 2 COMMAND.

01:34PM 3 Q. AND DO YOU RECALL WHETHER THERE WERE RESTRICTIONS ON WHAT  
01:34PM 4 THAT OUTPUT COULD BE?

01:34PM 5 A. THERE WERE NO RESTRICTIONS. WE HAD TOTAL FREEDOM IN HOW WE  
01:35PM 6 MADE THE OUTPUT LOOK.

01:35PM 7 Q. SO HOW IS IT THAT YOU MADE THE DECISION ON WHAT THAT OUTPUT  
01:35PM 8 SHOULD BE?

01:35PM 9 A. WE WENT THROUGH A COUPLE OF THINGS. WE WOULD HAVE LIKED TO  
01:35PM 10 HAVE EACH PART TO FIT ON A SINGLE LINE, BUT WE THOUGHT THAT  
01:35PM 11 WOULD BE HARD TO READ IF IT WENT OVER 80 COLUMNS, SO WE  
01:35PM 12 ACTUALLY MADE EVERY ITEM APPEAR ON THE TWO LINES. WITH THE  
01:35PM 13 FIRST LINE BEING THE NAME AND THE DEVICE AND THE DESCRIPTION  
01:35PM 14 AND THE SECOND LINE BEING THE IMPORTANT INFORMATION, THE  
01:35PM 15 VERSION AND THE SERIAL NUMBER.

01:35PM 16 THEN WE WOULD REPEAT THAT FOR EVERY DEVICE INCLUDED.

01:35PM 17 WE ALSO INCLUDED ALL OF THE TEXT IN QUOTES AND SEPARATED  
01:35PM 18 THINGS WITH COLONS SO THAT IF PEOPLE WANTED TO PROCESS IT  
01:35PM 19 AUTOMATICALLY WITH A PROGRAM OR A SCRIPT THEY WOULD EASILY BE  
01:35PM 20 ABLE TO FIND THE EDGES OF EACH FIELD, THEY COULD SEPARATE EACH  
01:35PM 21 INFORMATION FIELD EASILY.

01:35PM 22 Q. OKAY. SO YOU SAID SOMETHING THERE, PROCESS AUTOMATICALLY  
01:36PM 23 WITH A SCRIPT?

01:36PM 24 A. YES.

01:36PM 25 Q. CAN YOU EXPLAIN TO US WHAT THAT IS?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:36PM 1 A. SO ALTHOUGH SOME PEOPLE USE THE DEVICE BY SITTING ON A KEY  
01:36PM 2 BOARD AND TYPING, TYPING INDIVIDUAL COMMANDS AND READING THE  
01:36PM 3 OUTPUT, SOMETIMES THEY PROGRAM A COMPUTER TO CONNECT FOR THEM  
01:36PM 4 ISSUE THE COMMANDS, READ THE OUTPUT, AND THEN EXTRACT THE  
01:36PM 5 INFORMATION FROM THE OUTPUT. THAT'S A WAY OF AUTOMATING THE  
01:36PM 6 PROCESS.

01:36PM 7 SO RATHER THAN HAVING TO LOG IN AND TYPE AND TYPE AND TYPE,  
01:36PM 8 SOME NETWORK ADMINISTRATORS WILL WRITE A PROGRAM, A SCRIPT  
01:36PM 9 WHICH WILL THEN GO AND PERFORM A BUNCH OF FUNCTIONS, SEND  
01:36PM 10 COMMANDS AND THEN INTERPRET THE OUTPUT.

01:36PM 11 Q. SO WOULD THAT TYPE OF PROGRAM, THAT AUTOMATION YOU  
01:36PM 12 DESCRIBED STILL USE THE CLI?

01:36PM 13 A. YES, THE CLI IS ONE OF THE WAYS THAT AN AUTOMATION PROGRAM  
01:36PM 14 WOULD ACCESS A CISCO DEVICE.

01:36PM 15 Q. NOW I WANT TO MOVE ON A LITTLE BIT. WE WILL GO TO SLIDE 8  
01:37PM 16 HERE AND TALK ABOUT THE SHOW INVENTORY HELP DESCRIPTION.

01:37PM 17 DO YOU SEE THAT?

01:37PM 18 A. YES.

01:37PM 19 Q. AT THE TIME YOU WERE CREATING THE SHOW INVENTORY COMMAND  
01:37PM 20 WAS THERE ALSO A HELP DESCRIPTION CREATED?

01:37PM 21 A. YES, WE CREATED HELP DESCRIPTION AT THE TIME WE CREATED THE  
01:37PM 22 COMMAND.

01:37PM 23 Q. AND WHAT WAS THAT HELP DESCRIPTION?

01:37PM 24 A. SO, AT THE COMMAND LINE, BECAUSE THERE ARE DOZENS OF  
01:37PM 25 POSSIBLE SHOW COMMANDS, IT'S NOT REASONABLE TO EXPECT SOMEBODY

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:37PM 1 TO MEMORIZE ALL OF THE COMMANDS. SO WE HAVE ONLINE HELP.

01:37PM 2 IF YOU TYPE QUESTION MARK AFTER A COMMAND, IT WILL SHOW YOU  
01:37PM 3 ALL THE POSSIBLE CHILD COMMANDS THAT ARE ALLOWED AT THAT  
01:37PM 4 PROMPT, INCLUDING THE INVENTORY COMMAND.

01:37PM 5 Q. AND THEN IN TERMS OF THE DESCRIPTION FOR THE INVENTORY  
01:37PM 6 COMMAND ITSELF?

01:37PM 7 A. YES.

01:37PM 8 Q. WHAT WOULD THAT BE?

01:37PM 9 A. SO FOR EACH COMMAND THERE'S A BRIEF EXPLANATION, A BRIEF  
01:37PM 10 SHORT HELP STRING, A HELP TEXT THAT TELLS PEOPLE WHAT TO DO.  
01:38PM 11 WE WROTE THE HELP TEXT TO DESCRIBE WHAT THE SHOW INVENTORY  
01:38PM 12 COMMAND DID. AND SPECIFICALLY WE SAID IT WAS TO SHOW THE  
01:38PM 13 PHYSICAL INVENTORY OF THE BOX. THAT'S THE PARTS INSIDE THE  
01:38PM 14 BOX.

01:38PM 15 Q. AND PHYSICAL INVENTORY IS TO DISTINGUISH IT FROM WHAT?

01:38PM 16 A. WELL, YOU MIGHT GET AN INVENTORY OF SOFTWARE LICENSES IN  
01:38PM 17 THE BOX OR YOU MIGHT GET AN INVENTORY OF SOFTWARE MODULES ON  
01:38PM 18 THE BOX. WE WANTED TO MAKE IT CLEAR WE WERE TALKING ABOUT  
01:38PM 19 PHYSICAL THINGS THAT WERE, THAT WE ARE TAKING INVENTORY OF,  
01:38PM 20 PHYSICAL HARDWARE.

01:38PM 21 Q. SO WHEN YOU WERE DEVELOPING THE HELP DESCRIPTION, WERE YOU  
01:38PM 22 CONSTRAINED?

01:38PM 23 A. WE HAD NO CONSTRAINTS. THE AESTHETIC WAS TO KEEP IT SHORT,  
01:38PM 24 BUT THERE ARE NO OFFICIAL CONSTRAINTS THAT I'M AWARE OF FOR THE  
01:38PM 25 HELP TEXT ITSELF.

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:38PM 1 Q. SO YOU SAID THAT WORD A FEW TIMES, AESTHETIC, CAN YOU  
01:39PM 2 EXPLAIN TO US WHAT YOU MEAN IN THE CONTEXT OF CLI, THE  
01:39PM 3 AESTHETIC?

01:39PM 4 A. THE AESTHETIC IS THE WAY THE CLI IS ORGANIZED, THE WAY YOU  
01:39PM 5 EXPECT, IF YOU LOOK AT THE WAY THIS TABLE OF HELP IS ORGANIZED,  
01:39PM 6 YOU KNOW, HAVING STUFF TABBED OUT, HAVING EVERYTHING FIT  
01:39PM 7 CLEANLY ON THE SCREEN, HAVING THE HIERARCHY, HAVING THE HELP,  
01:39PM 8 HAVING THIS ALL FEEL OF THE INTERFACE, THAT'S PART OF WHAT I  
01:39PM 9 WOULD CONSIDER THE AESTHETIC.

01:39PM 10 Q. DOES THAT HAVING ANYTHING TO DO WITH THE CONSISTENCY THAT  
01:39PM 11 YOU TALKED ABOUT EARLIER?

01:39PM 12 A. I DON'T THINK IT DOES DIRECTLY. CONSISTENCY IS PART OF THE  
01:39PM 13 AESTHETIC, I SUPPOSE, BUT I DON'T KNOW HOW I WOULD LINK THEM.

01:39PM 14 Q. OKAY. NOW I WANT TO GO TO ANOTHER TOPIC.

01:39PM 15 SO WE TALKED ABOUT EARLIER, I THINK IT WAS BEFORE LUNCH.  
01:39PM 16 YOU HAVE BEEN IN THE SERVICE DIVISION FOR ABOUT 20 YEARS OR SO;  
01:39PM 17 IS THAT RIGHT?

01:39PM 18 A. IT WILL BE 25 YEARS IN JANUARY.

01:39PM 19 Q. OKAY. 25 YEARS. SO IN CONNECTION WITH YOUR WORK, HAVE YOU  
01:40PM 20 GAINED AN UNDERSTANDING OF HOW CUSTOMERS USE THE CISCO CLI?

01:40PM 21 A. I HAVE.

01:40PM 22 Q. AND WHAT HAVE YOU LEARNED?

01:40PM 23 A. WELL, I'VE LEARNED THAT THEY LIKE IT. IT CAN BE DIFFICULT  
01:40PM 24 TO USE, BUT THEY LIKE IT BECAUSE IT'S VERY COMPACT AND POWERFUL  
01:40PM 25 AND PUTS A LOT OF THE FUNCTIONS AT THEIR FINGER TIPS TO DO

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:40PM 1

AMAZING THINGS.

01:40PM 2

Q. NOW WHEN YOU SAY COMPACT AND POWERFUL, CAN YOU TELL ME WHAT YOU MEAN BY THAT?

01:40PM 3

01:40PM 4

A. THERE ARE LOTS OF WAYS YOU COULD ARRANGE A USER INTERFACE. SOME OF OUR COMPETITORS HAVE DONE MANY DRIVEN INTERFACES WHERE YOU HAVE TO PICK ONE THING, PICK ANOTHER THING, AND WORK YOUR WAY DOWN THE MENU TO GET THE INFORMATION.

01:40PM 5

01:40PM 6

01:40PM 7

01:40PM 8

AND WHILE THAT MAKES IT EASY TO FIND A COMMAND, IT'S VERY DIFFICULT TO USE FOR ADVANCED USERS BECAUSE YOU KNOW EXACTLY WHAT YOU WANT, AND BEING ABLE TO ACCESS IT QUICKLY IS A SOURCE OF, A SOURCE OF POWER AND STRENGTH FOR USING THE BOX EFFECTIVELY AND EFFICIENTLY AND QUICKLY.

01:40PM 9

01:40PM 10

01:41PM 11

01:41PM 12

01:41PM 13

Q. SO DO YOU KNOW WHAT TYPES OF THINGS, TYPES OF ACTIVITIES FOR LACK OF A BETTER TERM, THAT CUSTOMERS USE THE CISCO CLI FOR WITH ITS PRODUCTS?

01:41PM 14

01:41PM 15

01:41PM 16

A. ONE OF THE MOST IMPORTANT FUNCTIONS FOR THE CLI IS TROUBLE SHOOTING.

01:41PM 17

01:41PM 18

Q. AND CAN YOU EXPLAIN TO US WHAT YOU MEAN BY TROUBLE SHOOTING?

01:41PM 19

01:41PM 20

A. SO TROUBLE SHOOTING, THE CISCO DEVICES ROUTERS AND SWITCHES SIT AT THE CORE OF A NETWORK. AND WHEN THINGS GO WRONG, WHEN THINGS SLOW DOWN OR THE NETWORK DOESN'T WORK, A NETWORK ADMINISTRATOR HAS TO VERY QUICKLY UNDERSTAND WHAT'S GOING ON OR COMPANIES ARE LOSING MONEY, THEY'RE FALLING APART.

01:41PM 21

01:41PM 22

01:41PM 23

01:41PM 24

01:41PM 25

THE COMMAND-LINE INTERFACE PROVIDES POWERFUL AND QUICK

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:42PM 1 ACCESS TO LOTS OF DETAILED INFORMATION ABOUT WHAT'S GOING ON IN  
01:42PM 2 THE NETWORK AND INTERNALLY IN THE HARDWARE, THE CISCO DEVICE,  
01:42PM 3 AND ALLOWS CUSTOMERS TO SOLVE THESE PROBLEMS MORE QUICKLY.

01:42PM 4 Q. AND HOW DOES THE CLI, THE COMMAND-LINE INTERFACE, FIT INTO  
01:42PM 5 THAT?

01:42PM 6 A. THE COMMAND-LINE INTERFACE IS THE METHOD BY WHICH YOU  
01:42PM 7 COLLECT THIS TROUBLE SHOOTING INFORMATION.

01:42PM 8 Q. NOW IS THERE ANYTHING THAT CISCO PROVIDES TO TEACH ITS  
01:42PM 9 CUSTOMERS ABOUT TROUBLE SHOOTING?

01:42PM 10 A. WE PRODUCE A NUMBER OF TROUBLE SHOOTING GUIDES TO HELP  
01:42PM 11 CUSTOMERS WITH THESE KINDS OF TROUBLE SHOOTING PROBLEMS.

01:42PM 12 Q. SO I WANT YOU TO TURN TO -- WELL, I'M PERPLEXED BECAUSE IN  
01:43PM 13 ONE PLACE HERE IT SAYS 2875 BUT MY TAB SAYS 26 -- DO YOU HAVE A  
01:43PM 14 2875? HOW ABOUT IF WE GO WITH THAT QUESTION?

01:43PM 15 A. I DO NOT HAVE A 2875.

01:43PM 16 Q. OKAY. WELL, THAT'S UNFORTUNATE. WELL, LET'S JUST TALK A  
01:43PM 17 LITTLE BIT MORE ABOUT THE TROUBLE SHOOTING --

01:43PM 18 A. I THINK I FOUND IT ON 2685 ON MINE.

01:43PM 19 Q. OKAY.

01:43PM 20 A. IT'S THE --

01:43PM 21 Q. DO YOU HAVE A 2685, YOUR HONOR?

01:43PM 22 THE COURT: I DO.

01:43PM 23 MR. NELSON: EVERYBODY DOES BUT ME. OKAY. CAN --  
01:43PM 24 LET ME NOT DO THAT. LET ME ASK YOU THE QUESTIONS FIRST.

01:43PM 25 Q. WHAT ARE THESE PRODUCED FOR?

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:43PM 1 A. I BEG YOUR PARDON?

01:43PM 2 Q. THE TROUBLE SHOOTING GUIDE THAT YOU ARE LOOKING AT, RIGHT,

01:43PM 3 WHY ARE THEY MADE?

01:43PM 4 A. THEY ARE PRODUCED BY CISCO TO HELP CUSTOMERS TO PROVIDE AN

01:44PM 5 AID TO CUSTOMERS FOR TROUBLE SHOOTING THEIR NETWORKS.

01:44PM 6 Q. AND WHAT -- ARE THEY PRODUCED GENERALLY AS PART OF CISCO'S

01:44PM 7 BUSINESS?

01:44PM 8 A. THESE ARE PRODUCED BY OUR DOCUMENTATION DEPARTMENT AND

01:44PM 9 DISTRIBUTED TO CUSTOMERS.

01:44PM 10 Q. OKAY. AND AT THIS POINT -- 2685?

01:44PM 11 A. OKAY.

01:44PM 12 MR. NELSON: I MOVE 2685 INTO EVIDENCE, YOUR HONOR.

01:44PM 13 MR. FERRALL: NO OBJECTION.

01:44PM 14 THE COURT: IT WILL BE ADMITTED.

01:44PM 15 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 2685, HAVING BEEN

01:44PM 16 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

01:44PM 17 EVIDENCE.)

01:44PM 18 BY MR. NELSON:

01:44PM 19 Q. SO NOW WE ARE LOOKING AT THE FIRST PAGE OF 2685. THIS SAYS

01:44PM 20 RELEASE -- IT SAYS CISCO NX-OS; DO YOU SEE THAT?

01:44PM 21 A. 2685 WAS THE IOS XR -- HOLD ON. I'M SORRY, IT'S A

01:44PM 22 DIFFERENT TROUBLE SHOOTING DOCUMENT.

01:44PM 23 Q. WELL, YOU WILL SELL YOU WHAT, PUT 2685 UP THERE, THAT'S THE

01:44PM 24 ONE WE ADMITTED INTO EVIDENCE AND WE ARE GOING TO TALK ABOUT

01:44PM 25 THAT ONE. I APOLOGIZE, THIS HAPPENS SOMETIMES, THIS IS MY



DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:45PM 1

FAULT.

01:45PM 2

ARE YOU THERE?

01:45PM 3

A. I AM.

01:45PM 4

Q. SO WHAT IS 2685?

01:45PM 5

A. SO 2685 IS ONE OF MANY DOCUMENTS THAT CISCO PRODUCES TO

01:45PM 6

HELP CUSTOMERS TROUBLE SHOOT THEIR NETWORKS.

01:45PM 7

Q. IT SAYS IOS XR, COULD YOU EXPLAIN TO US WHAT IOS XR IS?

01:45PM 8

A. IOS XR IS A VARIANT OF THE IOS INTERNETWORK OPERATING

01:45PM 9

SYSTEM THAT RUNS ON PRODUCTS USED IN THE SERVICE PROVIDER

01:45PM 10

MARKET.

01:45PM 11

Q. NOW, ARE THERE COMMANDS THAT YOU THINK ARE PARTICULARLY

01:46PM 12

IMPORTANT TO TROUBLE SHOOTING?

01:46PM 13

A. THERE ARE.

01:46PM 14

Q. AND WHAT KINDS OF COMMANDS WOULD THOSE BE, IF YOU COULD

01:46PM 15

GIVE US SOME EXAMPLES?

01:46PM 16

A. SOME OF THEM COULD INCLUDE COMMANDS LIKE SHOW ARP, TO DIG

01:46PM 17

THROUGH THE ARP TABLE. SHOW INTERFACE WILL GIVE YOU

01:46PM 18

INFORMATION ABOUT INTERFACE COMMANDS. SHOW VERSION ABOUT THE

01:46PM 19

SOFTWARE VERSION THAT YOU ARE USING. AND A NUMBER OF SIMILAR

01:46PM 20

COMMANDS LIKE THAT.

01:46PM 21

Q. OKAY. AND WHY ARE THOSE KINDS OF THINGS PARTICULARLY

01:46PM 22

IMPORTANT TO TROUBLE SHOOTING?

01:46PM 23

A. THESE ARE -- THESE ARE GIVING CUSTOMERS INSIGHT INTO THINGS

01:46PM 24

THAT ARE GOING ON INSIDE THE DEVICE, AND WITH OTHER DEVICES,

01:46PM 25

OTHER COMPUTERS ON THE NETWORK SURROUNDING THE ROUTER OR

DIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

01:46PM 1

SWITCH.

01:46PM 2

Q. NOW, ARE THERE OTHER THINGS THAT THE CLI IS IMPORTANT TO

01:46PM 3

BESIDES TROUBLE SHOOTING? I MEAN WITH CUSTOMERS, BASED ON YOUR

01:46PM 4

EXPERIENCE.

01:47PM 5

A. YES. THE CLI IS ALSO USED FOR CONFIGURATION.

01:47PM 6

Q. AND WHY IS THAT IMPORTANT FOR THAT?

01:47PM 7

A. CONFIGURATION IS HOW YOU ADD NEW FEATURES TO YOUR NETWORK.

01:47PM 8

IT'S HOW YOU BUILD UP SECURITY FIREWALL INFORMATION. IT'S HOW

01:47PM 9

YOU BLOCK MALICIOUS USERS. IT'S A WAY TO SET COMMANDS IN THE

01:47PM 10

DEVICE TO MAKE FUNCTIONS HAPPEN.

01:47PM 11

Q. SO THE -- WE HEARD YESTERDAY A LITTLE BIT ABOUT GRAPHICAL

01:47PM 12

USER INTERFACE THAT'S INCLUDED WITH CERTAIN OF THE IOS

01:47PM 13

VERSIONS.

01:47PM 14

ARE YOU FAMILIAR WITH THAT?

01:47PM 15

A. SO THERE ARE GRAPHICAL USER INTERFACES THAT -- YOU CAN

01:47PM 16

CONFIGURE CISCO DEVICES THROUGH A GRAPHICAL USER INTERFACE ON A

01:47PM 17

SEPARATE DEVICE LIKE YOUR NETWORK MANAGEMENT STATION.

01:47PM 18

Q. SO IF THOSE ARE AVAILABLE FOR CUSTOMERS, WHY IS CLI STILL

01:47PM 19

USED?

01:47PM 20

A. OH. SO ALTHOUGH IN THE NORMAL COURSE OF EVENTS YOU WOULD

01:48PM 21

LIKE TO HAVE SOME CENTRAL MANAGEMENT STATION MANAGING YOUR

01:48PM 22

NETWORK AND DOING THINGS AUTOMATICALLY THROUGH A GRAPHICAL USER

01:48PM 23

INTERFACE OR A PROGRAMATIC USER INTERFACE, WHEN THINGS GO

01:48PM 24

WRONG, YOU WANT TO GET RIGHT DOWN INTO THE SOURCE AND RIGHT

01:48PM 25

DOWN TO THE INDIVIDUAL HARDWARE THAT'S HAVING A PROBLEM.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:48PM 1 THE COMMAND-LINE INTERFACE IS THE WAY TO DO THAT, EVEN  
01:48PM 2 THOUGH IT LOOKS LIKE DOS FROM THE 1980S, IT'S STILL THE  
01:48PM 3 POWERFUL WAY TO MANAGE A NETWORK DEVICE IN A CUSTOMER'S  
01:48PM 4 NETWORK.

01:48PM 5 MR. NELSON: THANK YOU, SIR.

01:48PM 6 AT THIS POINT I DON'T HAVE ANY FURTHER QUESTIONS. I WILL  
01:48PM 7 PASS THE WITNESS, YOUR HONOR.

01:48PM 8 THE COURT: ALL RIGHT. MR. FERRALL, THIS IS YOUR  
01:48PM 9 WITNESS.

01:48PM 10 MR. FERRALL: YES, IT IS. THANK YOU.

01:48PM 11 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

01:49PM 12 MR. FERRALL: GIVE ME A MOMENT, IF YOU WILL.

01:49PM 13

01:49PM 14 **CROSS-EXAMINATION BY MR. FERRALL**

01:49PM 15

01:49PM 16 BY MR. FERRALL:

01:49PM 17 Q. GOOD AFTERNOON, MR. REMAKER.

01:49PM 18 A. GOOD AFTERNOON.

01:49PM 19 Q. WE MET BEFORE, RIGHT?

01:49PM 20 A. WE HAVE.

01:49PM 21 Q. I'VE HANDED YOU SOME DOCUMENTS WE MAY LOOK AT THIS  
01:49PM 22 AFTERNOON AS WELL AS COPIES OF YOUR DEPOSITION FROM THIS CASE.

01:49PM 23 LET ME START WITH SOME BASICS HERE.

01:49PM 24 OF THE COMMANDS THAT ARE ASSERTED IN THIS CASE, YOU'VE ONLY  
01:49PM 25 AUTHORED ONE OF THEM, RIGHT? THE SHOW INVENTORY COMMAND?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:50PM 1

A. YES.

01:50PM 2

Q. OKAY. AND I TAKE IT YOU CAN'T SPEAK TO WHAT WAS GOING

01:50PM 3

THROUGH THE MINDS OF THE PEOPLE, WHOEVER THEY WERE, WHO CREATED

01:50PM 4

THE OTHER 400 AND SOME COMMANDS, RIGHT?

01:50PM 5

A. THAT'S CORRECT.

01:50PM 6

Q. FOR EXAMPLE, YOU DON'T KNOW ONE WAY OR THE OTHER, WHETHER

01:50PM 7

THE AUTHORS OF ANY OF THOSE OTHER COMMANDS COPIED FROM SOME

01:50PM 8

OTHER PLACE, ANY OF THE WORDS THEY USED IN THOSE COMMANDS?

01:50PM 9

A. I WOULD HAVE NO WAY TO KNOW THAT PERSONALLY.

01:50PM 10

Q. AND I THINK WE SAW IN YOUR DIRECT TESTIMONY THAT CISCO

01:50PM 11

ENGINEERS ARE FREE TO USE INDUSTRY STANDARD PUBLICATIONS WHEN

01:50PM 12

THEY COME UP WITH COMMANDS, RIGHT?

01:50PM 13

A. THAT'S CORRECT.

01:50PM 14

Q. AND THAT WOULD INCLUDE, FOR EXAMPLE, IEEE STANDARD

01:51PM 15

PUBLICATIONS, RIGHT?

01:51PM 16

A. CORRECT.

01:51PM 17

Q. AND IETF PUBLICATIONS, CORRECT?

01:51PM 18

A. YES.

01:51PM 19

Q. NOW ON THE SUBJECT OF COMMANDS, I THINK YOU'VE USED THE

01:51PM 20

TERM NERD KNOB TO REFER TO A COMMAND, HAVEN'T YOU?

01:51PM 21

A. I HAVE USED THAT TERM.

01:51PM 22

Q. AND THAT'S BECAUSE A CLI COMMAND IS SORT OF LIKE A KNOB TO

01:51PM 23

CONTROL THE FUNCTION OF THE DEVICE, IS THAT FAIR?

01:51PM 24

A. A NERD KNOB IS A SPECIFIC CLASS OF COMMAND, BUT OKAY.

01:51PM 25

Q. OKAY. LET'S TALK A LITTLE BIT ABOUT YOUR SHOW INVENTORY

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:51PM 1 COMMAND THAT YOU DESCRIBED ON DIRECT.

01:51PM 2 I THINK -- WELL, FIRST, LET ME START, YOU UNDERSTAND IN  
01:52PM 3 THIS CASE CISCO IS NOT ASSERTING A CLAIM OVER THE FUNCTION OF  
01:52PM 4 THAT COMMAND, RIGHT?

01:52PM 5 A. I'M -- I'M NOT EXACTLY FAMILIAR WITH ALL OF THE LEGAL  
01:52PM 6 TERMS.

01:52PM 7 Q. OKAY. WELL, LET'S FOCUS ON THE COMMAND WORDS THEMSELVES  
01:52PM 8 THEN.

01:52PM 9 AND I THINK IT'S YOUR TESTIMONY THAT AT THE TIME THAT YOU  
01:52PM 10 CAME UP WITH THE SHOW INVENTORY COMMAND, THE WORD "SHOW" HAD  
01:52PM 11 BEEN USED A LOT ALREADY AT CISCO, RIGHT?

01:52PM 12 A. YES.

01:52PM 13 Q. AND SO YOU DIDN'T CONSIDER ANY OTHER WORD OTHER THAN SHOW,  
01:52PM 14 TO BEGIN THE COMMAND FOR THE SHOW INVENTORY FUNCTION, RIGHT?

01:52PM 15 A. I DIDN'T.

01:52PM 16 Q. AND THAT'S BECAUSE YOU KNEW THAT THIS COMMAND WAS GOING TO  
01:52PM 17 GENERATE AN OUTPUT ON THE SCREEN, RIGHT, YES?

01:53PM 18 A. YES.

01:53PM 19 Q. SORRY, WE JUST NEED AUDIBLE ANSWERS HERE. AND FOR  
01:53PM 20 FUNCTIONS THAT GENERATE AN OUTCOME ON THE SCREEN, IT'S ALWAYS  
01:53PM 21 BEEN THE PRACTICE OF CISCO TO USE THE WORD SHOW?

01:53PM 22 A. IT'S A COMMON PRACTICE.

01:53PM 23 Q. SO THE EFFORT THAT YOU AND YOUR COLLEAGUES WENT THROUGH ON  
01:53PM 24 THIS COMMAND WAS ALL ABOUT DETERMINING WHAT THE SECOND WORD  
01:53PM 25 WOULD BE FOLLOWING SHOW, RIGHT?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:53PM 1 A. AS WELL AS OTHER MEMBERS OF THE HIERARCHY LATER ON SUCH AS  
01:53PM 2 DETAIL AND RAW.

01:53PM 3 Q. OKAY. AND IF WE COULD PULL UP THE CISCO SLIDE 6, PLEASE.  
01:53PM 4 I JUST JOTTED DOWN THE NOTES, MR. REMAKER, FROM YOUR TESTIMONY,  
01:54PM 5 AND I WANT TO MAKE SURE WE GOT THIS STRAIGHT.

01:54PM 6 IF I UNDERSTAND THE PROCESS THAT YOU WENT THROUGH, AND BY  
01:54PM 7 THE WAY, THIS IS MEANT TO DEPICT THE 6 TO 8 PEOPLE WHO WORKED  
01:54PM 8 ON COMING UP WITH THE WORD INVENTORY?

01:54PM 9 A. YES.

01:54PM 10 Q. OKAY. AND THEY WORKED UPWARDS OF SIX -- I THINK YOU SAID 6  
01:54PM 11 TO 8 OR 6 TO 10 HOURS TO DECIDE THIS?

01:54PM 12 A. APPROXIMATELY, YES.

01:54PM 13 Q. TO DECIDE INVENTORY.

01:54PM 14 AND WHAT HAPPENED WAS YOU REJECTED THE WORD SERIAL BECAUSE  
01:54PM 15 THAT WAS CONFUSING, I THINK THAT'S WHAT YOU TESTIFIED TO,  
01:54PM 16 RIGHT?

01:54PM 17 A. POTENTIALLY CONFUSING.

01:54PM 18 Q. OKAY. AND THE WORD HARDWARE WAS ALREADY USED BY ANOTHER  
01:54PM 19 COMMAND, RIGHT?

01:54PM 20 A. RIGHT.

01:54PM 21 Q. AND THE WORD IDENTITY WOULD BE POTENTIALLY CONFUSING  
01:54PM 22 BECAUSE IT MIGHT RELATE TO SECURITY, RIGHT?

01:54PM 23 A. YES.

01:54PM 24 Q. AND MODULE AND CONTROLLER WERE REJECTED BECAUSE THOSE WERE  
01:55PM 25 ALREADY USED ON OTHER PLATFORMS, RIGHT?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:55PM 1 A. RIGHT.

01:55PM 2 Q. OKAY. AND SO -- AND THEN YOU ARRIVED AT INVENTORY?

01:55PM 3 A. YES.

01:55PM 4 Q. OKAY. SO THOSE WERE ALL CONSTRAINTS THAT YOUR TEAM

01:55PM 5 CONSIDERED IN DETERMINING THE WORDS OF THIS COMMAND, RIGHT?

01:55PM 6 A. YES.

01:55PM 7 Q. NOW COUNSEL ALSO TALKED TO YOU ABOUT -- ACTUALLY, LET'S GET

01:55PM 8 UP SLIDE SEVEN. THERE WAS YOUR DEPICTION OF THE OUTPUT OF THE

01:55PM 9 SHOW INVENTORY COMMAND, RIGHT?

01:55PM 10 A. YES.

01:55PM 11 Q. AND YOU WOULD CONSIDER THIS PART OF THE CISCO USER

01:55PM 12 INTERFACE, CORRECT?

01:55PM 13 A. YES.

01:55PM 14 Q. AND YOU CONSIDER IT A VALUABLE PART OF THE CISCO USER

01:55PM 15 INTERFACE?

01:55PM 16 A. YES.

01:55PM 17 Q. AND YOU UNDERSTAND CISCO IS NOT ASSERTING IN THIS CASE THAT

01:55PM 18 ARISTA HAS COPIED THIS COMMAND RESPONSE, RIGHT?

01:55PM 19 A. I'M NOT AWARE OF THE TECHNICALITIES.

01:55PM 20 Q. OKAY. AND COUNSEL ALSO HAD YOU EXPLAIN THE HELP

01:56PM 21 DESCRIPTION FOR THE SHOW INVENTORY COMMAND, RIGHT?

01:56PM 22 A. YES.

01:56PM 23 Q. DO YOU CONSIDER THAT VALUABLE?

01:56PM 24 A. YES.

01:56PM 25 Q. AND ARE YOU AWARE THAT CISCO IS NOT ACCUSING ARISTA OF

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:56PM 1 COPYING THAT EITHER?

01:56PM 2 A. I'M NOT AWARE.

01:56PM 3 Q. STICKING WITH SCREEN OUTPUTS OR COMMAND RESPONSES, I THINK

01:56PM 4 YOU TESTIFIED THAT THERE ARE -- YOU SAID DOZENS OF SHOW

01:56PM 5 COMMANDS, THAT'S AN UNDERSTATEMENT, ISN'T IT?

01:56PM 6 A. PROBABLY.

01:56PM 7 Q. AREN'T THERE ACTUALLY THOUSANDS OF SHOW COMMANDS WITHIN

01:56PM 8 IOS?

01:56PM 9 A. I DON'T KNOW THE EXACT COUNT, BUT IT COULD BE A VERY LARGE

01:56PM 10 NUMBER.

01:56PM 11 Q. OKAY. AND EACH ONE OF THOSE HAS A SCREEN OUTPUT ASSOCIATED

01:56PM 12 WITH IT?

01:56PM 13 A. YES.

01:56PM 14 Q. OKAY. AND IN THIS CASE, CISCO IS ACCUSING ARISTA OF

01:56PM 15 COPYING A TOTAL OF 16 COMMAND RESPONSES IN IOS OUT OF THE

01:57PM 16 THOUSANDS THAT ARE THERE; DO YOU KNOW THAT?

01:57PM 17 A. I DIDN'T.

01:57PM 18 Q. LET'S TALK A LITTLE BIT ABOUT PARSER-POLICE.

01:57PM 19 I THINK YOU EXPLAINED IN YOUR OPENING TESTIMONY, YOUR

01:57PM 20 DIRECT TESTIMONY THAT YOU AUTHORED THE FIRST VERSION OF THE

01:57PM 21 PARSER-POLICE MANIFESTER, RIGHT?

01:57PM 22 A. I DID.

01:57PM 23 Q. AND THE PURPOSE OF THAT MANIFESTO, AS WE SAW -- IF WE COULD

01:57PM 24 ASK YOU TO PULL UP 5175, SORRY, LET ME ASK YOU TO LOOK AT 5175

01:57PM 25 IN YOUR BINDER, FIRST.



CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:58PM 1 DO YOU RECOGNIZE THIS, MR. REMAKER, AS AN E-MAIL FROM YOU  
01:58PM 2 IN WHICH YOU'RE ATTACHING A VERSION OF THE PARSER-POLICE  
01:58PM 3 MANIFESTO?

01:58PM 4 A. YES.

01:58PM 5 MR. FERRALL: YOUR HONOR, I WOULD OFFER EXHIBIT 5175  
01:58PM 6 INTO EVIDENCE.

01:58PM 7 THE COURT: ANY OBJECTION?

01:58PM 8 MR. NELSON: NO OBJECTION, YOUR HONOR.

01:58PM 9 THE COURT: IT WILL BE ADMITTED.

01:58PM 10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5175, HAVING BEEN  
01:58PM 11 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
01:58PM 12 EVIDENCE.)

01:58PM 13 BY MR. FERRALL:

01:58PM 14 Q. AND I THINK THIS IS JUST A DIFFERENT VERSION OF WHAT YOU  
01:58PM 15 TESTIFIED ON DIRECT; IS THAT RIGHT?

01:58PM 16 A. YES.

01:58PM 17 Q. OKAY. AND THE PURPOSE OF THE MANIFESTO AS STATED HERE, IS  
01:58PM 18 TO ENSURE CONSISTENCY, USABILITY AND FRIENDLINESS OF THE  
01:58PM 19 CONFIGURATION INTERFACE, RIGHT?

01:58PM 20 A. YES.

01:58PM 21 Q. AND THE REASON TO ENSURE CONSISTENCY OF THE INTERFACE IS  
01:59PM 22 BECAUSE CUSTOMERS EXPECT CONSISTENCY, RIGHT?

01:59PM 23 A. CISCO'S CUSTOMERS EXPECT THAT, YES.

01:59PM 24 Q. OKAY. AND COUNSEL WALKED THROUGH WITH YOU A NUMBER OF  
01:59PM 25 THESE GUIDELINES, AND I JUST WANT TO TOUCH UPON A COUPLE OF

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

01:59PM 1 THEM. THE GUIDELINES, AT LEAST IN THIS EXHIBIT, THEY BEGIN ON  
01:59PM 2 THE BOTTOM OF THE SECOND PAGE, I BELIEVE.

01:59PM 3 AND LET ME JUST ASK YOU GENERALLY ABOUT THESE GUIDELINES,  
01:59PM 4 BECAUSE I THINK WE WALKED THROUGH THEM PRETTY CLEARLY. THE  
01:59PM 5 GUIDELINES WERE MEANT TO BE FOLLOWED, IF POSSIBLE, RIGHT?

01:59PM 6 A. YES.

01:59PM 7 Q. THE WHOLE IDEA WAS TO GIVE ENGINEERS AT CISCO GUIDELINES  
01:59PM 8 FOR THEM TO FOLLOW WHEN THEY CAME UP WITH COMMANDS, RIGHT?

02:00PM 9 A. YES.

02:00PM 10 Q. LET'S LOOK AT THE SECTION OF THIS, SORRY, LET'S PUT 5175  
02:00PM 11 BACK UP, PLEASE UNDER CHANGING SYNTAX, WHICH IS IN THE SECOND  
02:00PM 12 TO LAST PAGE, THIS IS A LITTLE BIT HARD TO SEE, BUT IN THIS  
02:00PM 13 PARAGRAPH, YOU WRITE THAT THERE ARE AT LEAST FOUR REASONS NOT  
02:00PM 14 TO CHANGE THE SYNTAX OF A COMMAND, RIGHT?

02:00PM 15 A. YES.

02:01PM 16 Q. AND THE FIRST REASON YOU NOTE IS THAT CUSTOMERS ARE TRAINED  
02:01PM 17 ON AND FAMILIAR WITH EXISTING SYNTAX. THAT'S YOUR FIRST  
02:01PM 18 REASON, CORRECT?

02:01PM 19 A. YES.

02:01PM 20 Q. OKAY. AND THEN THE SECOND REASON TALKS ABOUT THE PROBLEM  
02:01PM 21 WITH CHANGING SYNTAX COULD CAUSE CATASTROPHIC FAILURES, DO YOU  
02:01PM 22 SEE THAT?

02:01PM 23 A. YES.

02:01PM 24 Q. AND IF YOU CHANGE SYNTAX AND THE CUSTOMER DOESN'T RECOGNIZE  
02:01PM 25 OR KNOW THE COMMAND, IT CAN CAUSE A CATASTROPHIC FAILURE IN THE

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:01PM 1

NETWORK?

02:01PM 2

A. IF NOT THE CUSTOMER, BUT THE CISCO DEVICE. IF THE CISCO

02:01PM 3

DEVICE DOESN'T RECOGNIZE THE COMMAND, THERE COULD BE A

02:02PM 4

CATASTROPHIC PROBLEM.

02:02PM 5

Q. AND THAT'S CERTAINLY NOT CONSISTENT WITH CISCO'S CULTURE OF

02:02PM 6

MAKING ITS CUSTOMERS SUCCESSFUL THAT YOU TESTIFIED AT THE OUT

02:02PM 7

SET TODAY, RIGHT?

02:02PM 8

A. YES.

02:02PM 9

Q. NOW STICKING WITH PARSER-POLICE, LET ME ASK YOU TO LOOK AT

02:02PM 10

EXHIBIT 5155, PLEASE. EXHIBIT 5155 IS A CISCO POWER POINT

02:02PM 11

ENTITLED PARSER-POLICE, WHERE CAN WE GO FROM HERE.

02:02PM 12

DO YOU SEE THAT?

02:02PM 13

A. YES.

02:02PM 14

Q. AND YOU'RE LISTED HERE ON THE COVER OF THIS POWER POINT,

02:02PM 15

RIGHT?

02:02PM 16

A. YES.

02:02PM 17

MR. FERRALL: YOUR HONOR, I WOULD OFFER 5155 IN

02:02PM 18

EVIDENCE.

02:03PM 19

MR. NELSON: NO OBJECTION, YOUR HONOR.

02:03PM 20

THE COURT: IT WILL BE ADMITTED.

02:03PM 21

(WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5155, HAVING BEEN

02:03PM 22

PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

02:03PM 23

EVIDENCE.)

02:03PM 24

BY MR. FERRALL:

02:03PM 25

Q. THIS WAS A PRESENTATION THAT WAS CIRCULATED AT LEAST AMONG

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:03PM 1 YOUR COLLEAGUES IN THE ENGINEERING GROUP AT CISCO IN THE 2004  
02:03PM 2 TIMEFRAME, RIGHT?

02:03PM 3 A. YES.

02:03PM 4 Q. AND THERE WERE SOME CONCERNS ABOUT HOW PARSE-POLICE WAS  
02:03PM 5 OPERATING IN THIS TIME, RIGHT?

02:03PM 6 A. YES.

02:03PM 7 Q. AND AMONG THE QUESTIONS YOU ASKED ON PAGE 4 OF THIS POWER  
02:03PM 8 POINT WAS, IS AN UPGRADE TO PARSE-POLICE PROCESS NECESSARY, OR  
02:03PM 9 SORRY, UPGRADE TO PARSE-POLICE PROCESS NECESSARY, RIGHT?

02:03PM 10 A. JUST TO CLARIFY, THOSE ARE NATARAJAN SHANKAR'S WORDS.

02:04PM 11 Q. OKAY. SO THIS PRESENTATION ASKS THAT QUESTION, RIGHT?

02:04PM 12 A. YES.

02:04PM 13 Q. AND THE FIRST BULLET POINT IN RESPONSE TO THIS QUESTION  
02:04PM 14 STATES THAT CLI IS DE FACTO INDUSTRY STANDARD, NEED TO  
02:04PM 15 CONTINUALLY FOSTER ITS SYNTACTIC AND BEHAVIORAL CONSISTENCY.  
02:04PM 16 THAT'S WHAT MR. SHANKAR WROTE AT LEAST, WRITE?

02:04PM 17 A. RIGHT.

02:04PM 18 Q. AND WHAT HE MEANS THERE IS THAT BECAUSE IT'S THE DE FACTO  
02:04PM 19 INDUSTRY STANDARD, IT'S IMPORTANT THAT WE KEEP SOME RULES ON  
02:04PM 20 IT, RIGHT?

02:04PM 21 A. THE CUSTOMERS IN THE INDUSTRY EXPECT THE CISCO DEVICE TO  
02:04PM 22 BEHAVIOR CONSISTENTLY.

02:04PM 23 Q. AND YOU UNDERSTAND WHAT DE FACTO STANDARD MEANS?

02:04PM 24 A. I DON'T REALLY HAVE AN OPINION ON THAT. IT COULD MEAN A  
02:04PM 25 LOT OF THINGS TO A LOT OF PEOPLE.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:04PM 1 Q. OKAY. WELL, CISCO HAS A DEFINITION FOR DE FACTO STANDARD,  
02:05PM 2 DOESN'T IT?

02:05PM 3 A. NOT THAT I'M AWARE OF OTHER THAN IT'S POPULAR IN THE  
02:05PM 4 INDUSTRY.

02:05PM 5 Q. TAKE A LOOK AT EXHIBIT 9014 IN YOUR BINDER. YOU SEE  
02:05PM 6 EXHIBIT 9014 AS A DOCUMENT ENTITLED INTERNET TERMS AND  
02:05PM 7 ACRONYMS?

02:05PM 8 A. I SEE IT.

02:05PM 9 Q. AND THAT'S A CISCO DOCUMENT, RIGHT?

02:05PM 10 A. RIGHT.

02:05PM 11 Q. AND THIS IS A GLOSSARY OF INTERNET WORKING TERMS, RIGHT?

02:05PM 12 A. RIGHT.

02:05PM 13 MR. FERRALL: YOUR HONOR, I MOVE EXHIBIT 9014 IN  
02:05PM 14 EVIDENCE.

02:05PM 15 THE COURT: ANY OBJECTION?

02:05PM 16 MR. NELSON: THE ONLY THING I WOULD LIKE TO ESTABLISH  
02:05PM 17 A BIT MORE, NOT SO MUCH THE DOCUMENT BUT WHETHER THERE'S ANY  
02:05PM 18 FOUNDATION FOR THE WITNESS TO TALK ABOUT IT.

02:05PM 19 THE COURT: WELL, WHY DON'T WE DO THAT WITH WHEN THE  
02:05PM 20 QUESTION IS ASKED. NO OBJECTION TO THE DOCUMENT ITSELF?

02:06PM 21 MR. NELSON: CORRECT, YOUR HONOR.

02:06PM 22 THE COURT: ALL RIGHT.

02:06PM 23 THE DOCUMENT WILL BE ADMITTED.

02:06PM 24 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 9014, HAVING BEEN  
02:06PM 25 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:06PM 1

EVIDENCE.)

02:06PM 2

BY MR. FERRALL:

02:06PM 3

Q. IF YOU TURN TO PAGE 37 OF THIS EXHIBIT 9014, DO YOU SEE

02:06PM 4

THERE'S A DEFINITION THERE OF DE FACTO STANDARD?

02:06PM 5

A. I SEE IT.

02:06PM 6

Q. IS THAT CONSISTENT WITH YOUR UNDERSTANDING OF DE FACTO

02:06PM 7

STANDARD?

02:06PM 8

A. SO IT SAYS A STANDARD BY USAGE RATHER THAN OFFICIAL DECREE;

02:06PM 9

A DEFAULT STANDARD.

02:06PM 10

SO THAT COULD BE ONE OF THE POSSIBLE DEFINITIONS FOR

02:06PM 11

DE FACTO STANDARD, YES.

02:06PM 12

Q. THAT'S A FAIR DEFINITION, RIGHT?

02:06PM 13

A. IT SEEMS REASONABLE.

02:06PM 14

Q. OKAY. SO GOING BACK TO EXHIBIT 5155 -- AND IF WE COULD SEE

02:07PM 15

THE PORTION WE WERE LOOKING AT.

02:07PM 16

ISN'T IT TRUE, MR. REMAKER, THAT AT THIS TIME IN 2004,

02:07PM 17

CISCO WAS HAPPY WITH ITS CLI COMMANDS BEING A DE FACTO INDUSTRY

02:07PM 18

STANDARD BECAUSE THAT ADVANCED YOUR CULTURE OF MAKING CUSTOMERS

02:07PM 19

SUCCESSFUL, RIGHT?

02:07PM 20

A. COULD YOU REPEAT THAT QUESTION, I'M SORRY.

02:07PM 21

Q. SURE.

02:07PM 22

CISCO WAS HAPPY WITH THE CLI COMMANDS BEING A DE FACTO

02:07PM 23

INDUSTRY STANDARD BECAUSE THAT WAS CONSISTENT WITH THE CULTURE

02:07PM 24

OF MAKING CUSTOMERS SUCCESSFUL?

02:07PM 25

A. YES, A CONSISTENT CLI MAKES OUR CUSTOMERS SUCCESSFUL.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:07PM 1 Q. WELL, AN INDUSTRY STANDARD CLI MAKES YOUR CUSTOMERS  
02:08PM 2 SUCCESSFUL ALSO, RIGHT?  
02:08PM 3 A. WELL, TO THE EXTENT IT'S POPULAR IN THE INDUSTRY AND THAT  
02:08PM 4 PEOPLE IN THE INDUSTRY KNOW HOW TO USE IT, SURE.  
02:08PM 5 Q. AND THAT WAS THE VIEWS OF ONE OF YOUR COLLEAGUES IN THE  
02:08PM 6 SENIOR ENGINEERING GROUP, MR. JOEL BION, RIGHT?  
02:08PM 7 A. IT MIGHT BE, I DON'T KNOW.  
02:08PM 8 Q. OKAY. YOU KNOW MR. BION?  
02:08PM 9 A. I DO KNOW MR. BION.  
02:08PM 10 Q. WHAT POSITION DOES HE HAVE AT CISCO?  
02:08PM 11 A. HE IS THE SENIOR VICE PRESIDENT, BUT I DON'T KNOW IN WHAT  
02:08PM 12 GROUP SPECIFICALLY.  
02:08PM 13 Q. THAT'S A VERY SENIOR POSITION AT CISCO, ISN'T IT?  
02:08PM 14 A. THAT IS A VERY SENIOR POSITION.  
02:08PM 15 Q. IF WE COULD LOOK AT EXHIBIT 5464 WHICH WAS PREVIOUSLY  
02:08PM 16 ADMITTED. AND IF WE COULD TURN TO THE SECOND PAGE?  
02:09PM 17 A. SORRY, I DON'T SEEM TO HAVE IT.  
02:09PM 18 Q. IT'S NOT IN YOUR --  
02:09PM 19 A. WHAT WAS THE NUMBER AGAIN.  
02:09PM 20 Q. 5464?  
02:09PM 21 A. OH, I'M SORRY, I HAVE IT. I SEE IT.  
02:09PM 22 Q. IT WAS A NEW ADDITION BECAUSE IT WAS JUST ADMITTED IN  
02:09PM 23 EVIDENCE.  
02:09PM 24 MR. FERRALL: DO YOU HAVE IT, YOUR HONOR?  
02:09PM 25 THE COURT: NO, BUT THAT'S OKAY. OH, HERE IT IS, I

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:09PM 1 DO. SORRY.

02:09PM 2 BY MR. FERRALL:

02:09PM 3 Q. ON THE SECOND PAGE OF THIS, THIS IS A PRESS RELEASE --

02:09PM 4 SORRY, STRIKE THAT THIS IS A PRESS RELEASE THAT CISCO APPEARS

02:09PM 5 TO HAVE RELEASED OR PREPARED IN 2009. DO YOU SEE THAT?

02:09PM 6 A. YES.

02:09PM 7 Q. OKAY. AND ON THE SECOND PAGE UNDER THE HEADING, THERE'S A

02:10PM 8 TRANSFORMING AN INDUSTRY, THERE'S A QUOTE FROM MR. BION WHERE

02:10PM 9 IT STARTS, ONE OF IOS'S BIGGEST LEGACIES IS ESTABLISHING THE

02:10PM 10 INDUSTRY STANDARD FOR HOW PEOPLE INTERFACE WITH ROUTERS AND

02:10PM 11 SWITCHES KNOWN AS IT IS COMMAND LANGUAGE INTERFACE OR CLI?

02:10PM 12 A. YES.

02:10PM 13 Q. YOU SEE THAT LANGUAGE. THEN THERE'S A QUOTE FROM MR. BION,

02:10PM 14 COULD YOU READ THAT?

02:10PM 15 A. ANYONE WHO GOES TO CONFIGURE A COMPETITOR'S PRODUCT FEELS

02:10PM 16 VERY MUCH AT HOME.

02:10PM 17 Q. AND THAT SENTIMENT FROM MR. BION, THAT WAS CONSISTENT WITH

02:10PM 18 CISCO'S CULTURE OF MAKING ITS CUSTOMERS SUCCESSFUL, RIGHT?

02:10PM 19 A. WE ARE CERTAINLY INTERESTED IN MAKING OUR CUSTOMERS

02:11PM 20 SUCCESSFUL.

02:11PM 21 Q. AND YOU KNOW, MR. REMAKER, THAT MAKING A CUSTOMER LEARN 20

02:11PM 22 DIFFERENT COMMAND LANGUAGES THAT ARE USED BY EACH OF THE

02:11PM 23 VARIOUS COMPETITORS OF CISCO, THAT DOESN'T MAKE YOUR CUSTOMERS

02:11PM 24 SUCCESSFUL, DOES IT?

02:11PM 25 A. NO, OUR CUSTOMERS PREFER A COMMON COMMAND LINE LANGUAGE.



CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:11PM 1 Q. NOW WE'VE TALKED A BIT ABOUT CISCO CULTURE, ISN'T IT TRUE,  
02:11PM 2 MR. REMAKER, THAT NOT TOO LONG AGO THERE WERE SOME OBSERVATIONS  
02:11PM 3 AT CISCO THAT ITS CULTURE WAS ACTUALLY HINDERING INNOVATION AT  
02:11PM 4 CISCO?  
02:11PM 5 A. TELL ME MORE ABOUT THAT.  
02:11PM 6 Q. SURE, LET'S LOOK AT EXHIBIT 5168. DO YOU RECOGNIZE THIS  
02:12PM 7 DOCUMENT?  
02:12PM 8 A. I HAD SEEN IT DURING MY DEPOSITION.  
02:12PM 9 Q. THIS IS A DOCUMENT THAT CAME FROM YOUR FILES, RIGHT?  
02:12PM 10 A. APPARENTLY IT CAME FROM MY E-MAIL.  
02:12PM 11 Q. AND THIS IS AN INTERNAL CISCO DOCUMENT REGARDING AN  
02:12PM 12 ASSESSMENT AT CISCO, RIGHT?  
02:12PM 13 A. YES.  
02:12PM 14 MR. FERRALL: YOUR HONOR, I OFFER EXHIBIT 5168 INTO  
02:12PM 15 EVIDENCE.  
02:12PM 16 THE COURT: ANY OBJECTION?  
02:12PM 17 MR. NELSON: NO OBJECTION, YOUR HONOR.  
02:12PM 18 THE COURT: IT WILL BE ADMITTED.  
02:12PM 19 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5168, HAVING BEEN  
02:12PM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
02:12PM 21 EVIDENCE.)  
02:12PM 22 BY MR. FERRALL:  
02:12PM 23 Q. AND SO THIS DOCUMENT ENTITLED INNOVATION AT CISCO DATED  
02:12PM 24 SEPTEMBER 2013; IS THAT CORRECT?  
02:12PM 25 A. YES.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:12PM 1 Q. AND THIS WAS A COMPANY-WIDE ASSESSMENT AT CISCO OF ASPECTS  
02:13PM 2 OF ITS BUSINESS BY AN EXTERNAL CONSULTING COMPANY, RIGHT?

02:13PM 3 A. THAT'S MY UNDERSTANDING, YES.

02:13PM 4 Q. LET'S FIRST LOOK, LET'S FIRST LOOK AT PAGE 6 OF THIS  
02:13PM 5 EXHIBIT. WHAT HAPPENED IN THIS ASSESSMENT IS THAT MANY VERY  
02:13PM 6 SENIOR PEOPLE AT CISCO WERE INTERVIEWED ABOUT INNOVATION AT  
02:13PM 7 CISCO, CORRECT?

02:13PM 8 A. YES.

02:13PM 9 Q. AND THAT INCLUDES PEOPLE LIKE CHUCK ROBBINS, THE CURRENT  
02:13PM 10 CEO OF CISCO, RIGHT?

02:13PM 11 A. RIGHT.

02:13PM 12 Q. AND MR. BION WHO WE JUST TALKED ABOUT, RIGHT?

02:13PM 13 A. RIGHT.

02:13PM 14 Q. AND PEOPLE LIKE PANKAJ PATEL WHO LATER BECAME, I THINK THE  
02:14PM 15 CHIEF TECHNOLOGY OFFICER AT CISCO, RIGHT?

02:14PM 16 A. PANKAJ PATEL WAS THE LEAD ENGINEER, OF ENGINEERING, BUT NOT  
02:14PM 17 THE CHIEF TECHNOLOGY OFFICER.

02:14PM 18 Q. OKAY. THANK YOU.

02:14PM 19 AND THE CONCLUSIONS AFTER ALL OF THESE INTERVIEWS ARE  
02:14PM 20 CAPTURED ON THE SECOND PAGE OF THIS SUMMARY. IF WE COULD LOOK  
02:14PM 21 AT THAT. IF WE COULD FOCUS ON THE SECOND BULLET POINT HERE IN  
02:14PM 22 THE EXECUTIVE SUMMARY AND BLOW THAT UP A LITTLE BIT.

02:14PM 23 SO TO BE CLEAR, MR. REMAKER, WHAT WE ARE SEEING HERE IS THE  
02:14PM 24 RESULT OF AN INTERNAL ASSESSMENT AT CISCO, THIS IS NOT THE  
02:14PM 25 OPINION OF SOME THIRD PARTY, RIGHT?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:14PM 1 A. THIS WAS AN INTERNAL ASSESSMENT CONDUCTED BY THE  
02:15PM 2 COMMITTEES.  
02:15PM 3 Q. AND THAT ASSESSMENT LEAD TO THE CONCLUSION, A STRONG  
02:15PM 4 AGREEMENT ACROSS SENIOR LEADERSHIP AROUND THE BIGGEST  
02:15PM 5 INNOVATION ROOT CAUSES. WE LACK CLARITY ABOUT WHERE WE WANT TO  
02:15PM 6 INTERNALLY INNOVATE.  
02:15PM 7 THAT WAS THE FIRST CONCLUSION, RIGHT?  
02:15PM 8 A. I SEE THAT.  
02:15PM 9 Q. OKAY. THE SECOND, OUR ORGANIZATION AND POLICIES ARE TOO  
02:15PM 10 RIGID TO SUPPORT INNOVATION?  
02:15PM 11 A. I SEE THAT.  
02:15PM 12 Q. INCENTIVES AND CULTURE DON'T PROMOTE INNOVATION.  
02:15PM 13 DO YOU SEE THAT?  
02:15PM 14 A. I SEE THAT.  
02:15PM 15 Q. AND LEADERSHIP AND TALENT ARE NOT DRIVING INNOVATION?  
02:15PM 16 A. I SEE THAT.  
02:16PM 17 Q. NOW IN TERMS OF, I WANT TO SHIFT FOCUS HERE AND GO BACK TO  
02:16PM 18 THE CLI A LITTLE BIT.  
02:16PM 19 YOU'VE EXPRESSED SOME APPRECIATION FOR THE WAY ARISTA HAS  
02:16PM 20 USED CLI; DO YOU REMEMBER THAT?  
02:16PM 21 A. THERE IS ONE SPECIFIC INSTANCE, YES.  
02:16PM 22 Q. RIGHT. YOU WATCHED AN ARISTA VIDEO DESCRIBING SOME NEW  
02:16PM 23 FEATURES THAT IT HAD INTRODUCED IN THE 2012 TIMEFRAME, DOES  
02:16PM 24 THAT SOUND FAMILIAR?  
02:16PM 25 A. YES.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:16PM 1 Q. OKAY. AND LET'S, LET'S LOOK AT EXHIBIT 5159, PLEASE. OR  
02:16PM 2 IF YOU COULD LOOK AT EXHIBIT 5159, PLEASE.

02:16PM 3 A. I HAVE IT.

02:16PM 4 Q. OKAY. THIS IS AN E-MAIL EXCHANGE FROM YOU TO SOME OF YOUR  
02:17PM 5 COLLEAGUES, RIGHT?

02:17PM 6 A. YES.

02:17PM 7 MR. FERRALL: ALL RIGHT. I OFFER EXHIBIT 5159 INTO  
02:17PM 8 EVIDENCE, PLEASE.

02:17PM 9 MR. NELSON: NO OBJECTION, YOUR HONOR.

02:17PM 10 THE COURT: IT WILL BE ADMITTED.

02:17PM 11 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5159, HAVING BEEN  
02:17PM 12 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
02:17PM 13 EVIDENCE.)

02:17PM 14 BY MR. FERRALL:

02:17PM 15 Q. AM I RIGHT, MR. REMAKER, IN THIS E-MAIL EXCHANGE,  
02:17PM 16 MR. PIGNATARO AT CISCO, HAD FORWARDED TO YOU A LINK TO AN  
02:17PM 17 ARISTA VIDEO ABOUT ITS CLOUD VISION FEATURE, RIGHT?

02:17PM 18 A. YES.

02:17PM 19 Q. AND MR. PIGNATARO, WAS HE YOUR BOSS AT THE TIME?

02:17PM 20 A. HE'S A PEER.

02:17PM 21 Q. PEER. OKAY. AND YOU PROCEEDED TO WATCH THE VIDEO ONLINE,  
02:17PM 22 RIGHT?

02:17PM 23 A. YES.

02:17PM 24 Q. AND YOU MADE SOME OBSERVATIONS OVER THE NEXT 5 OR  
02:17PM 25 10 MINUTES?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:17PM 1 A. I DID.

02:17PM 2 Q. YES. AND THE FIRST THING YOU NOTED IS THAT ARISTA WAS

02:17PM 3 IMPLEMENTING COMMANDS USING JABBER, RIGHT, OR SOMETHING LIKE

02:17PM 4 JABBER?

02:17PM 5 A. YES.

02:17PM 6 Q. WHICH, JABBER IS LIKE A CHAT CLIENT, RIGHT, OR CHAT TOOL?

02:18PM 7 A. IT'S LIKE INSTANT MESSAGE OR AN SMSGROUP.

02:18PM 8 Q. FAIR ENOUGH. AND YOUR REACTION TO THAT WAS KEWL, RIGHT?

02:18PM 9 A. YES.

02:18PM 10 Q. AND THEN LET'S LOOK AT THE NEXT EXHIBIT, 5160. THIS IS

02:18PM 11 ANOTHER E-MAIL FROM YOU TO MR. PIGNATARO, A COUPLE OF MINUTES

02:18PM 12 LATER, RIGHT?

02:18PM 13 A. YES.

02:18PM 14 MR. FERRALL: I WOULD LIKE TO OFFER EXHIBIT 5160,

02:18PM 15 YOUR HONOR.

02:18PM 16 THE COURT: ANY OBJECTION?

02:18PM 17 MR. NELSON: NO OBJECTION, YOUR HONOR.

02:18PM 18 THE COURT: IT WILL BE ADMITTED.

02:18PM 19 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5160, HAVING BEEN

02:18PM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

02:18PM 21 EVIDENCE.)

02:18PM 22 BY MR. FERRALL:

02:18PM 23 Q. SO HERE I THINK IT'S A MINUTE LATER AT 12:33 YOU NOTE, WELL

02:18PM 24 SO MUCH FOR THAT PATENT. DOES IT DO MULTI POINT, MORE

02:18PM 25 IMPORTANTLY, CAN WE IMITATE IT, VERY COOL.

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:18PM 1 ARE YOU STILL TALKING ABOUT THE JABBER CHAT USE OF THE CLI?

02:19PM 2 A. NO. OH, I'M SORRY, I'M SORRY, IN THIS DOCUMENT?

02:19PM 3 Q. YES.

02:19PM 4 A. YES.

02:19PM 5 Q. YOU ARE. OKAY. ALL RIGHT.

02:19PM 6 AND THEN LET'S LOOK AT WHAT I THINK IS THE NEXT E-MAIL,

02:19PM 7 5161, THIS IS THE NEXT E-MAIL FROM YOU TO THE GROUP?

02:19PM 8 THIS ACTUALLY IS NOW TO MR. LOUGHEED, I APOLOGIZE, RIGHT?

02:19PM 9 A. YES.

02:19PM 10 MR. FERRALL: I OFFER EXHIBIT 5161 IN EVIDENCE.

02:19PM 11 MR. NELSON: WHICH -- THIS IS AN E-MAIL FROM WHOM?

02:19PM 12 MR. FERRALL: MR. REMAKER TO MR. LOUGHEED.

02:19PM 13 MR. NELSON: NO OBJECTION, YOUR HONOR.

02:19PM 14 THE COURT: IT WILL BE ADMITTED.

02:19PM 15 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5161, HAVING BEEN

02:19PM 16 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

02:19PM 17 EVIDENCE.)

02:19PM 18 BY MR. FERRALL:

02:19PM 19 Q. SO HERE AT 1234 ABOUT A MINUTE LATER YOU WRITE, ARISTA HAS

02:19PM 20 AN XMPP BASED CLI, VERY COOL, WISH WE HAD DONE THIS, RIGHT?

02:19PM 21 A. YES.

02:19PM 22 Q. OKAY. AND XMPP BASED CLI, THAT'S, AGAIN, ANOTHER TERM

02:20PM 23 REFERRING TO THIS JABBER TYPE TOOL, AM I RIGHT ABOUT THAT?

02:20PM 24 A. XMPP IS A PROTOCOL FOR CHAT ROOMS, MULTI POINT CHAT ROOMS.

02:20PM 25 Q. AND YOU NOTE, AMONG OTHER THINGS, THIS KICKS ASS?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:20PM 1 A. YES.

02:20PM 2 Q. AND THEN I THINK WE'VE JUST GOT ONE MORE IN THE SERIES. IF

02:20PM 3 WE COULD LOOK AT EXHIBIT 5162. THIS IS ANOTHER E-MAIL FROM YOU

02:20PM 4 TO MR. PIGNATARO ON THE SAME DAY AND TOPIC, RIGHT?

02:20PM 5 A. YES.

02:20PM 6 Q. IF WE COULD OFFER -- I WOULD LIKE TO OFFER 5162 IN

02:20PM 7 EVIDENCE?

02:20PM 8 MR. NELSON: NO OBJECTION, YOUR HONOR.

02:20PM 9 THE COURT: IT WILL BE ADMITTED.

02:20PM 10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5162, HAVING BEEN

02:20PM 11 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

02:20PM 12 EVIDENCE.)

02:20PM 13 BY MR. FERRALL:

02:20PM 14 Q. AND BY NOW I GUESS THIS IS ABOUT FIVE MINUTES FROM OUR

02:21PM 15 FIRST E-MAIL IN THIS THREAD, RIGHT?

02:21PM 16 A. YES.

02:21PM 17 Q. OKAY. AND YOU ARE UP TO PART THREE OF THE VIDEO, CORRECT?

02:21PM 18 A. YES.

02:21PM 19 Q. AND YOU CONCLUDE, I WISH IOS DID THIS, RIGHT?

02:21PM 20 A. YES.

02:21PM 21 Q. NOW, MR. REMAKER, I KNOW THAT YOU HAVE RESPECT FOR ARISTA,

02:21PM 22 CORRECT?

02:21PM 23 A. I KNOW PEOPLE THAT WORK THERE.

02:21PM 24 Q. YEAH. YOU KNOW A LOT OF FOLKS WHO WORK THERE AND YOU

02:21PM 25 RESPECT THEM, DON'T YOU?

CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:21PM 1 A. I RESPECT THEM.

02:21PM 2 Q. AND IF WE COULD LOOK AT 5157, PLEASE, OR YOU COULD. THIS

02:22PM 3 IS AN E-MAIL FROM YOU TO A FORMER CISCO EMPLOYEE, RIGHT?

02:22PM 4 A. YES.

02:22PM 5 MR. FERRALL: I WOULD LIKE TO OFFER 5157 INTO

02:22PM 6 EVIDENCE.

02:22PM 7 MR. NELSON: NO OBJECTION, YOUR HONOR.

02:22PM 8 THE COURT: IT WILL BE ADMITTED.

02:22PM 9 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5157, HAVING BEEN

02:22PM 10 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

02:22PM 11 EVIDENCE.)

02:22PM 12 BY MR. FERRALL:

02:22PM 13 Q. THIS IS AN E-MAIL FROM YOU TO MR. MOOTHEDATH?

02:22PM 14 A. MOOTHEDATH.

02:22PM 15 Q. AND YOU HAD WORKED WITH HIM AT CISCO, RIGHT?

02:22PM 16 A. I WORKED WITH HIM IN THE BANGALORE OFFICE.

02:22PM 17 Q. AND HE HAD TOLD YOU IN THIS E-MAIL THREAD THAT HE WAS GOING

02:22PM 18 TO WORK FOR ARISTA, RIGHT?

02:22PM 19 A. YES.

02:22PM 20 Q. AND THERE'S NOTHING WRONG, OF COURSE, WITH MOVING FROM ONE

02:22PM 21 COMPANY TO ANOTHER, RIGHT?

02:22PM 22 A. YES.

02:22PM 23 Q. THIS E-MAIL, BY THE WAY, IS DATED NOVEMBER 18, 2014, RIGHT?

02:23PM 24 A. YES.

02:23PM 25 Q. AND YOU KNOW THAT THAT'S ONLY ABOUT TWO WEEKS BEFORE THIS



CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:23PM 1 LAWSUIT WAS FILED?

02:23PM 2 A. I DIDN'T KNOW AT THE TIME, BUT I KNOW NOW.

02:23PM 3 Q. YOU DIDN'T KNOW THE LAWSUIT WAS GOING TO BE FILED WHEN YOU

02:23PM 4 WROTE THIS E-MAIL, RIGHT?

02:23PM 5 A. THAT'S RIGHT.

02:23PM 6 Q. OKAY. AND YOU WRITE, ARISTA IS TRULY AN AMAZING COMPANY

02:23PM 7 WITH SOME AMAZING PEOPLE, RIGHT?

02:23PM 8 A. YES.

02:23PM 9 Q. AND IN THE SECOND PARAGRAPH YOU SAY, I ACTUALLY MET ANDY B.

02:23PM 10 FOR THE FIRST TIME LAST WEEK. WHO IS ANDY B.?

02:23PM 11 A. THAT WOULD BE ANDY BECHTOLSHEIM.

02:23PM 12 Q. AND YOU DESCRIBE HIM AS A GENTLE GIANT AND A GENIUS?

02:23PM 13 A. YES.

02:23PM 14 Q. AND CISCO SHOULD FEAR WHENEVER HE TREADS NEARBY, YOU WROTE,

02:23PM 15 RIGHT?

02:23PM 16 A. YES.

02:23PM 17 Q. AND YOU'RE RECOUNTING YOUR CONVERSATION WITH

02:23PM 18 MR. BECHTOLSHEIM, RIGHT?

02:24PM 19 A. THE --

02:24PM 20 Q. THE NEXT SENTENCE?

02:24PM 21 A. OH, THE NEXT SENTENCE, YES.

02:24PM 22 Q. AND BECAUSE IN THAT CONVERSATION YOU JOKED WITH HIM ABOUT

02:24PM 23 IT, BUT HE SAID THAT HE HAD NOTHING BUT THE UTMOST RESPECT FOR

02:24PM 24 CISCO?

02:24PM 25 A. THAT'S RIGHT.

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:24PM 1 MR. FERRALL: I HAVE NO FURTHER QUESTIONS.

02:24PM 2 THANK YOU.

02:24PM 3 THE COURT: REDIRECT FOR THIS WITNESS?

02:24PM 4 MR. NELSON: I'M GOING TO SEE IF I CAN DO BETTER WITH  
02:24PM 5 THE EXHIBIT NUMBERS, YOUR HONOR, SORRY ABOUT THAT.

02:24PM 6

02:24PM 7 **REDIRECT EXAMINATION BY MR. NELSON**

02:24PM 8

02:24PM 9 BY MR. NELSON:

02:24PM 10 Q. GOOD AFTERNOON. I JUST HAVE A FEW QUESTIONS FOR YOU.

02:24PM 11 I WANT TO GO BACK TO SOME QUESTIONS YOU WERE ASKED EARLY ON  
02:24PM 12 ABOUT CONSISTENCY, THIS GOES TO YOUR SHOW INVENTORY COMMAND AND  
02:24PM 13 TALKING ABOUT CONSISTENCY WITH THE EXISTING CLI, DO YOU RECALL  
02:25PM 14 THOSE?

02:25PM 15 A. YES.

02:25PM 16 Q. SO EXPLAIN TO ME WHAT YOU MEAN AGAIN WHEN YOU SAY  
02:25PM 17 CONSISTENCY WITH THE EXISTING CLI?

02:25PM 18 A. IT'S -- WE HAVE MULTIPLE DIFFERENT OPERATING SYSTEMS AT  
02:25PM 19 CISCO, AND WE WANT TO HAVE THEM ALL CONSISTENT, BOTH INSIDE  
02:25PM 20 EACH OPERATING SYSTEM AND ACROSS THE DIFFERENT OPERATING  
02:25PM 21 SYSTEMS AT CISCO.

02:25PM 22 AND CONSISTENCY WILL BE THE ABILITY FOR CUSTOMERS TO FIND  
02:25PM 23 WHAT THEY NEED IN THE COMMAND LINE AND TO FIND WHAT THEY NEED  
02:25PM 24 IN THE OUTPUT TO THE COMMAND LINE AS WELL, LIKE BEING ABLE TO  
02:25PM 25 FIND INFORMATION QUICKLY.

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:25PM 1 Q. SO YOU'RE TALKING ABOUT CONSISTENCY WITH WHAT CISCO ALREADY  
02:25PM 2 AUTHORED IN ITS COMMAND-LINE INTERFACE; IS THAT RIGHT?

02:25PM 3 A. ABSOLUTELY. CONSISTENCY, INTERNAL CONSISTENCY WITHIN THE  
02:26PM 4 OPERATING SYSTEM AND ACROSS OUR DIFFERENT OPERATING SYSTEM  
02:26PM 5 FAMILIES.

02:26PM 6 Q. AND YOU MENTION SOMETHING ABOUT CONSISTENCY, CUSTOMERS  
02:26PM 7 WOULD EXPECT TO SEE CONSISTENCY WITH RESPECT TO CISCO PRODUCTS;  
02:26PM 8 IS THAT RIGHT?

02:26PM 9 A. THAT'S RIGHT.

02:26PM 10 Q. AND WHAT DO YOU MEAN BY THAT?

02:26PM 11 A. IT'S WHEN THEY ARE MOVING FROM ONE PRODUCT TO ANOTHER, ONE  
02:26PM 12 SOFTWARE VERSION TO ANOTHER, AGAIN, THEN THE PARSER-POLICE  
02:26PM 13 MANIFESTO, I TALKED ABOUT MOVING IT IN SOFTWARE VERSIONS. WHEN  
02:26PM 14 THEY CHANGE THE CODE OR MOVE AROUND IN THE CISCO PRODUCT  
02:26PM 15 FAMILIES, THEY EXPECT WHAT THEY KNOW, WHAT THEY'VE LEARNED,  
02:26PM 16 THEIR KNOWLEDGE, THEIR EXPERIENCE, THEIR SCRIPTS, TO ALL WORK  
02:26PM 17 THE SAME WAY ACROSS THEM.

02:26PM 18 Q. OKAY. AND SO YOU TALKED ABOUT THE SHOW INVENTORY COMMAND  
02:26PM 19 AND WENT THROUGH SOME OF THE VARIOUS CHOICES AND TALKED ABOUT,  
02:26PM 20 I THINK COUNSEL CHARACTERIZED IT AS CONSTRAINTS, RIGHT?

02:26PM 21 A. RIGHT.

02:26PM 22 Q. DO YOU RECALL THAT?

02:26PM 23 A. YES.

02:26PM 24 Q. ARE THOSE CONSTRAINTS THAT CAME FROM FITTING IT INTO THE  
02:26PM 25 EXISTING CISCO CLI?

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:27PM 1 A. I'M SORRY, I DON'T UNDERSTAND THE QUESTION.

02:27PM 2 Q. SO IN OTHER WORDS, SOME OF THE EXAMPLES, IF WE PUT SLIDE

02:27PM 3 SEVEN BACK UP THERE, I MIGHT AS WELL PUT THE -- OR IS IT SIX --

02:27PM 4 IT'S THE SHOW INVENTORY COMMAND. THE PREVIOUS ONE, MR. FISHER.

02:27PM 5 THE ONE WITH THE EASEL, PLEASE. IT'S EASIER IF I DESCRIBE IT.

02:27PM 6 OKAY. SO SHOW SERIAL.

02:27PM 7 A. YES.

02:27PM 8 Q. NOW YOU TALKED ABOUT THAT. SHOW SERIAL, WHAT WAS THE

02:27PM 9 REASON YOU DIDN'T USE SHOW SERIAL?

02:27PM 10 A. BECAUSE WE THOUGHT IT WOULD BE CONFUSING COMPARED TO OUR  
02:27PM 11 SERIAL INTERFACES.

02:27PM 12 Q. AND SO CISCO, WITHIN ITS EXISTING CLI, ALREADY SUPPORTED

02:27PM 13 SERIAL INTERFACES, IS THAT WHAT YOU ARE SAYING?

02:27PM 14 A. THAT'S RIGHT.

02:27PM 15 Q. SO THEN WHAT DO YOU MEAN CONFUSING WITH RESPECT TO WHAT?

02:27PM 16 A. OH, JUST THAT SERIAL NUMBER VERSUS SERIAL INTERFACE, IT'S  
02:28PM 17 JUST BECAUSE THE WORD CAN HAVE TWO DIFFERENT MEANINGS, WE WANT  
02:28PM 18 TO STEER AWAY FROM IT TO AVOID THE CONFUSION. AND WE DIDN'T  
02:28PM 19 THINK THAT WOULD BE HELPFUL.

02:28PM 20 Q. AND SO THE SAME THEN WITH SHOW HARDWARE. YOU EXPLAINED  
02:28PM 21 THAT TO ME. WAS THAT SOMETHING WHEN YOU REFERRED TO IT AS A  
02:28PM 22 CONSTRAINT, THAT WAS BECAUSE OF THE EXISTING CISCO CLI?

02:28PM 23 MR. FERRALL: OBJECTION. LEADING.

02:28PM 24 THE COURT: SUSTAINED.

02:28PM 25 BY MR. NELSON:

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:28PM 1 Q. WHERE DID THAT COME FROM?

02:28PM 2 A. THE SHOW HARDWARE OR THE CONSTRAINT, I'M SORRY?

02:28PM 3 Q. WELL BOTH, LET'S SAY SHOW HARDWARE FIRST, EXPLAIN TO US,  
02:28PM 4 REMIND US WHAT THAT IS?

02:28PM 5 A. AGAIN, THE INDIVIDUAL ENGINEERS BEFORE US HAVE HAD THE  
02:28PM 6 OPPORTUNITY TO EXERCISE THEIR PROFESSIONAL JUDGMENT AND THEIR  
02:28PM 7 EXPERIENCE AND THEIR CAPABILITY AND THEIR DISCUSSION WITH  
02:28PM 8 OTHERS AND THEIR TEAMS TO COME UP WITH THE WORDS. IF THE  
02:28PM 9 COMMAND ALREADY EXISTED, WE COULDN'T REPLICATE IT.

02:28PM 10 IN THAT CASE SHOW HARDWARE ALREADY EXISTED. SO WE COULDN'T  
02:28PM 11 MAKE ANOTHER COMMAND CALLED SHOW HARDWARE.

02:29PM 12 AND, YOU KNOW, WE WOULD -- THAT WOULD HAVE TO BE CONSISTENT  
02:29PM 13 WITH OUR PREVIOUS VERSION OF THE SOFTWARE. EACH VERSION OF  
02:29PM 14 SOFTWARE BUILDS ON THE PREVIOUS VERSION.

02:29PM 15 Q. SO THEN WHEN YOU WERE SAYING THERE WAS A CONSTRAINT, WHERE  
02:29PM 16 DID THAT COME FROM?

02:29PM 17 A. THE CONSTRAINT CAME FROM THE EXISTING CODE, THE EXISTING --  
02:29PM 18 THE CONSTRAINT IS NOT BY PROCESS OR NOT -- THE CONSTRAINT IS  
02:29PM 19 BECAUSE WE HAVE TO BE CONSISTENT WITH STUFF WE'VE DONE BEFORE.  
02:29PM 20 WE HAVE TO -- WE CAN'T SUDDENLY CHANGE WHAT A COMMAND MEANS FOR  
02:29PM 21 NO REASON.

02:29PM 22 Q. OKAY. NOW, YOU WERE ASKED SOME QUESTIONS ABOUT INDUSTRY  
02:29PM 23 STANDARD AND DE FACTO INDUSTRY STANDARD; DO YOU RECALL THOSE?

02:29PM 24 A. I DO.

02:29PM 25 Q. OKAY. AND HAVE YOU EVER HEARD ANYONE IN CISCO -- WELL,

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:29PM 1 ACTUALLY STRIKE THAT. DO YOU THINK THAT CISCO'S CLI IS JUST  
02:29PM 2 FREE FOR EVERYBODY TO USE?

02:29PM 3 A. I DON'T. IT'S A COPYRIGHTED PRODUCT OF CISCO'S.

02:29PM 4 Q. AND HAVE YOU EVER HEARD ANYBODY AT CISCO SAY HEY, IT'S FREE  
02:30PM 5 FOR EVERYBODY TO USE?

02:30PM 6 A. I'VE NEVER HEARD THAT.

02:30PM 7 Q. DID ANYONE FROM ARISTA CALL YOU UP AND ASK WHETHER THIS WAS  
02:30PM 8 FREE FOR THEM TO USE?

02:30PM 9 A. NOBODY CALLED ME.

02:30PM 10 Q. ARE YOU AWARE OF WHETHER THEY EVER CALLED ANYBODY AT CISCO  
02:30PM 11 AND SAID HEY, IS THIS FREE FOR US TO USE?

02:30PM 12 A. I'M NOT AWARE OF ANYTHING LIKE THAT.

02:30PM 13 Q. ARE YOU AWARE OF WHETHER ANYBODY AT ARISTA SAID, DO YOU  
02:30PM 14 THINK IT WOULD BE GOOD FOR YOUR CUSTOMERS IF I COPIED THE CLI?

02:30PM 15 A. I DON'T RECALL ANYTHING LIKE THAT.

02:30PM 16 Q. DID YOU EVER HEAR ANYBODY FROM ARISTA -- HEAR ABOUT ANYBODY  
02:30PM 17 FROM ARISTA ASKING CISCO THAT?

02:30PM 18 A. I HAVEN'T HEARD THAT.

02:30PM 19 Q. NOW, I WANT TO GO TO A COUPLE OF THE EXHIBITS THAT YOU WERE  
02:30PM 20 ASKED ABOUT. EXHIBIT 5168.

02:31PM 21 SO I BELIEVE THIS WAS REPRESENTED TO BE THE CONSULTANT  
02:31PM 22 SUMMARY OF THE INNOVATION SURVEY; IS THAT RIGHT?

02:31PM 23 A. YES.

02:31PM 24 Q. OKAY. SO YOU WERE ASKED A FEW QUESTIONS, BUT I WANT TO  
02:31PM 25 LOOK AT PAGE 20.

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:31PM 1 A. PAGE 20?

02:31PM 2 Q. YEAH. SO YOU SEE HERE, IT SAYS THE TITLE OF THIS IS CISCO

02:31PM 3 HAS MANY STRENGTHS, PARTICULARLY FOR DEVELOPING INCREMENTAL

02:31PM 4 INNOVATION; DO YOU SEE THAT?

02:31PM 5 A. I SEE THAT.

02:31PM 6 Q. DO YOU BELIEVE THAT'S TRUE?

02:31PM 7 A. ABSOLUTELY.

02:31PM 8 Q. AND THEN THE NEXT ONE THERE IS INNOVATION IS CONSIDERED A

02:31PM 9 HIGH PRIORITY ACROSS THE ORGANIZATION. DO YOU SEE THAT?

02:31PM 10 A. YES.

02:31PM 11 Q. DO YOU THINK THAT'S TRUE?

02:31PM 12 A. I AGREE WITH THAT AS WELL.

02:31PM 13 Q. HOW DOES THAT FIT IN WITH EARLIER IN YOUR TESTIMONY WE

02:31PM 14 TALKED ABOUT THE CISCO CULTURE?

02:32PM 15 A. WE ARE DEDICATED TO CUSTOMER SUCCESS AND EMPOWERMENT. WE

02:32PM 16 HAVE SMART ENGINEERS DOING AMAZING THINGS. AND WE ALSO GRADE

02:32PM 17 OURSELVES VERY HARSHLY. WE ALWAYS WANT TO BE DOING BETTER AND

02:32PM 18 WE ARE VERY HARD ON OURSELVES IF WE DON'T DO AS WELL AS WE

02:32PM 19 THINK WE CAN.

02:32PM 20 Q. SO A SURVEY LIKE THIS, IS THIS SOMETHING THAT YOU EVER

02:32PM 21 ENCOUNTERED BEFORE? IN OTHER WORDS, THE SURVEY OF THE

02:32PM 22 ORGANIZATION ABOUT MAYBE WHAT CHANGES WE SHOULD MAKE?

02:32PM 23 A. YES, EVERY GOOD ORGANIZATION IS ALWAYS LOOKING TO IMPROVE.

02:32PM 24 Q. I THINK YOU SAID WE ARE HARD GRADERS ON OURSELVES?

02:32PM 25 A. ABSOLUTELY.

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:32PM 1 Q. HOW DOES THAT FIT IN WITH A SURVEY LIKE THIS?

02:32PM 2 A. A SURVEY LIKE THIS HELPS FOCUS THE ALLOCATION OF RESOURCES  
02:32PM 3 AND TIME AND ORGANIZATION TO DO BETTER AT THE THINGS, AND WE  
02:32PM 4 ASKED ALL THE PEOPLE BECAUSE WE VALUED THEIR OPINION AND ROLLED  
02:32PM 5 IT UP INTO AN ACTION PLAN, OR I PRESUME IT GOT ROLLED UP INTO  
02:32PM 6 AN ACTION PLAN.

02:32PM 7 Q. SO THEN IN YOUR EXPERIENCE WITH THESE IMPROVEMENT SURVEYS,  
02:33PM 8 DO YOU ONLY TALK ABOUT GOOD THINGS?

02:33PM 9 A. WELL THAT WOULD BE A WASTE OF MONEY.

02:33PM 10 Q. OKAY. SO IS THAT WHERE THE HARD GRADING COMES IN?

02:33PM 11 A. WE -- WE -- YEAH. YOU PAY A COACH TO MAKE YOU BETTER, NOT  
02:33PM 12 TO TELL YOU HOW GOOD YOU ARE.

02:33PM 13 Q. ALL RIGHT. NOW I WANT TO GO TO, I BELIEVE IT WAS 5159 YOU  
02:33PM 14 WERE ASKED A FEW QUESTIONS, THERE WAS A SERIES OF E-MAILS ABOUT  
02:33PM 15 THE JABBER. AND I THINK YOU HAD DESCRIBED THIS AS XML, WRAPPED  
02:33PM 16 AROUND CLI?

02:33PM 17 A. XMPP.

02:33PM 18 Q. XMPP WRAPPED AROUND CLI?

02:33PM 19 A. YES.

02:33PM 20 Q. CAN YOU EXPLAIN TO ME WHAT THAT MEANS?

02:33PM 21 A. THE IDEA, BEFORE I SAW CLOUD VISION, WE HAD BEEN TALKING  
02:34PM 22 ABOUT THE IDEA INTERNALLY OF HAVING A BUNCH OF DEVICES,  
02:34PM 23 ESSENTIALLY IN A CHAT ROOM WHERE YOU CAN SEND A SINGLE COMMAND  
02:34PM 24 TO MULTIPLE DEVICES.

02:34PM 25 AND WE WERE KICKING AROUND THAT IDEA INTERNALLY. AND I SAW



REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:34PM 1 THAT ARISTA HAD DONE IT, I WAS IMPRESSED. AS YOU MAY HAVE  
02:34PM 2 NOTICED FROM MY TESTIMONY, I GET EXCITED ABOUT THINGS AND I  
02:34PM 3 FIRED OFF E-MAILS TO EVERYONE I KNEW SAYING THIS IS PRETTY  
02:34PM 4 COOL.

02:34PM 5 Q. SO -- AT THE DATE ON THIS E-MAIL IS FEBRUARY 22ND, 2012; IS  
02:34PM 6 THAT RIGHT?

02:34PM 7 A. THAT'S RIGHT.

02:34PM 8 Q. SO AT THE TIME YOU WROTE THIS E-MAIL DID YOU KNOW THAT  
02:34PM 9 CISCO ACTUALLY HAD A PATENT OF ITS OWN ON THAT TECHNOLOGY?

02:34PM 10 MR. FERRALL: OBJECTION. LACKS FOUNDATION.

02:34PM 11 THE COURT: OVERRULED.

02:34PM 12 THE WITNESS: I KNOW OF NO SUCH PATENT.

02:34PM 13 BY MR. NELSON:

02:34PM 14 Q. NOW THE -- I WANT TO TALK A LITTLE BIT ABOUT, I BELIEVE  
02:35PM 15 IT'S 5157. SO THIS IS THE E-MAIL FROM YOURSELF TO  
02:35PM 16 MR. MOOTHEDATH?

02:35PM 17 A. MOOTHEDATH, YES.

02:35PM 18 Q. MOOTHEDATH. OKAY. THANK YOU.

02:35PM 19 AND IT'S DATED NOVEMBER 18TH, 2014, RIGHT?

02:35PM 20 A. CORRECT.

02:35PM 21 Q. NOW AT THE TIME YOU WROTE THIS E-MAIL DID YOU KNOW ABOUT  
02:35PM 22 THE INTELLECTUAL PROPERTY MISAPPROPRIATION?

02:35PM 23 A. NO.

02:35PM 24 Q. DID YOU KNOW ABOUT THE EXTENT OF COPYING OF THE CLI?

02:35PM 25 A. NO.

REDIRECT EXAMINATION OF MR. REMAKER BY MR. NELSON

02:35PM 1 Q. DID YOU KNOW ABOUT ANY OF THE OTHER TECHNOLOGY  
02:35PM 2 MISAPPROPRIATIONS OF ARISTA AT THE TIME YOU WROTE THIS E-MAIL?  
02:35PM 3 A. NO.  
02:35PM 4 Q. HAVE YOU SINCE LEARNED ABOUT THOSE?  
02:35PM 5 A. AS PART OF PREPARING FOR THIS CASE, I HAVE.  
02:36PM 6 Q. OKAY. SO, I MEAN, SO ARISTA IS TRULY AN AMAZING COMPANY,  
02:36PM 7 LET'S GO BACK TO THAT. AT THE TIME, DID YOU BELIEVE THAT?  
02:36PM 8 A. I DID.  
02:36PM 9 Q. AND DO SOMETIMES AMAZING COMPANIES DO THINGS NOT SO GREAT?  
02:36PM 10 A. YES. AMAZING COMPANIES SOMETIMES MAKE UNFORTUNATE CHOICES.  
02:36PM 11 Q. SO AFTER THIS, SO YOU'RE AWARE NOW OF THE EXTENT OF THE  
02:36PM 12 INTELLECTUAL PROPERTY MISAPPROPRIATION, DO YOU HAVE A PERSONAL  
02:36PM 13 DISLIKE FOR THE PEOPLE THAT YOU KNEW AT ARISTA?  
02:36PM 14 A. NO.  
02:36PM 15 Q. AND WHY NOT?  
02:36PM 16 A. IT'S A SMALL VALLEY, EVERYBODY IN THE INDUSTRY TENDS TO  
02:36PM 17 KNOW EACH OTHER AND WE ALL TEND TO BE FRIENDS.  
02:36PM 18 MR. NELSON: ALL RIGHT. THANK YOU, SIR. I DON'T  
02:36PM 19 HAVE ANY FURTHER QUESTIONS FOR YOU.  
02:36PM 20 THE COURT: MR. FERRALL, ANYTHING ELSE FOR THIS  
02:36PM 21 WITNESS?  
02:36PM 22 MR. FERRALL: I DO HAVE A QUICK FOLLOW UP.  
02:36PM 23 THANK YOU.  
02:36PM 24  
02:36PM 25

RECROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

**RECROSS-EXAMINATION BY MR. FERRALL**

02:36PM 1

02:36PM 2

02:36PM 3

BY MR. FERRALL:

02:37PM 4

Q. MR. REMAKER, THAT CLOUD VISION VIDEO THAT YOU WATCHED, THAT

02:37PM 5

WAS IN FEBRUARY 2012?

02:37PM 6

A. YES.

02:37PM 7

Q. RIGHT?

02:37PM 8

ARE YOU TELLING ME THAT -- TELLING THE JURY THAT YOU WERE

02:37PM 9

NOT AWARE THAT ARISTA HAD AN INDUSTRY STANDARD CLI THEN OR TWO

02:37PM 10

AND A HALF YEARS AFTER THAT WHEN YOU WERE COMPLIMENTING ARISTA?

02:37PM 11

A. I KNEW THERE WERE ELEMENTS THAT WERE CISCO-LIKE, BUT I

02:37PM 12

CERTAINLY DIDN'T KNOW THE EXTENT OF THE COPYING.

02:37PM 13

Q. MY LAST QUESTION IS ABOUT 5168, WHICH YOUR COUNSEL ASKED

02:37PM 14

YOU ABOUT. IF WE COULD PULL UP THAT.

02:37PM 15

A. 5168?

02:37PM 16

Q. YES.

02:37PM 17

A. OKAY.

02:37PM 18

Q. THE CONCLUSIONS IN THIS ASSESSMENT DID TRULY GO TO PROBLEMS

02:38PM 19

WITH THE CULTURE AT CISCO AT THE TIME. IF YOU LOOK AT PAGE 4,

02:38PM 20

FOR EXAMPLE. THE CONCLUSION IN THE LAST BULLET POINT WAS FROM

02:38PM 21

SENIOR MANAGEMENT AT CISCO, OUR INNOVATION CULTURE HAS STALLED

02:38PM 22

AND LEADERSHIP HAS NOT REACTED AS QUICKLY AS IT SHOULD TO

02:38PM 23

REIGNITE AN INNOVATIVE CULTURE?

02:38PM 24

A. I SEE THAT.

02:38PM 25

Q. RIGHT?

RE CROSS-EXAMINATION OF MR. REMAKER BY MR. FERRALL

02:38PM 1 AND TWO BULLET POINTS ABOVE THAT, CISCO LEADERSHIP  
02:38PM 2 CONCLUDED CISCO HAS MISSED OR HAS BEEN LATE TO IMPORTANT  
02:38PM 3 TECHNOLOGY INNOVATIONS AND HAS BEEN SLOW TO INNOVATE ON  
02:38PM 4 BUSINESS MODELS AND OPERATIONAL PROCESSES, RIGHT?

02:39PM 5 A. RIGHT.

02:39PM 6 Q. SO THIS WAS A CULTURAL PROBLEM AT CISCO IN 2013?

02:39PM 7 A. I THINK CULTURAL MAY BE OVERSTATING IT, BUT IT WAS  
02:39PM 8 CERTAINLY A PROBLEM THAT NEEDED TO BE ADDRESSED.

02:39PM 9 MR. FERRALL: NO FURTHER QUESTIONS.

02:39PM 10 THE COURT: MR. NELSON, ANYTHING ELSE FOR  
02:39PM 11 MR. REMAKER?

02:39PM 12 MR. NELSON: NO, NOTHING ELSE. HE CAN BE EXCUSED,  
02:39PM 13 YOUR HONOR.

02:39PM 14 THE COURT: ALL RIGHT. MR. REMAKER, THANK YOU FOR  
02:39PM 15 YOUR TESTIMONY. YOU ARE FREE TO GO.

02:39PM 16 ALL RIGHT. I THINK WE ARE GOING TO TAKE A BREAK BEFORE WE  
02:39PM 17 GO ON TO OUR NEXT WITNESS. LET'S MAKE THIS A TEN-MINUTE BREAK  
02:39PM 18 AND COME BACK AT TEN MINUTES TO 3:00.

02:39PM 19 (WHEREUPON A RECESS WAS TAKEN.)

02:49PM 20 THE COURT: PLEASE BE SEATED, EVERYONE. WE ARE BACK  
02:55PM 21 ON THE RECORD AND ALL OF OUR JURORS ARE HERE.

02:56PM 22 MR. PAK, WHO IS YOUR NEXT WITNESS?

02:56PM 23 MR. PAK: WE HAVE MR. TERRY SLATTERY.

02:56PM 24 THE COURT: MR. SLATTERY, IF YOU WOULD COME FORWARD  
02:56PM 25 TO THE WITNESS STAND, AND STAND TO BE SWORN.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

02:56PM 1

02:56PM 2

**TERRY SLATTERY,**

02:56PM 3

BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,

02:56PM 4

HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS

02:56PM 5

FOLLOWS:

02:56PM 6

THE WITNESS: YES.

02:56PM 7

THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR NAME

02:56PM 8

AND SPELL YOUR LAST NAME FOR THE RECORD.

02:56PM 9

THE WITNESS: TERRY SLATTERY. S, AS IN SAM,

02:56PM 10

L-A-T-T-E-R-Y.

02:56PM 11

02:56PM 12

**DIRECT EXAMINATION BY MR. PAK**

02:56PM 13

02:56PM 14

BY MR. PAK:

02:56PM 15

Q. WONDERFUL. GOOD AFTERNOON, MR. SLATTERY. CAN YOU BRIEFLY

02:56PM 16

INTRODUCE YOURSELF TO THE JURY.

02:56PM 17

A. YES.

02:56PM 18

I'M TERRY SLATTERY. I AM A CONSULTANT FOR NET CRAFTSMEN.

02:56PM 19

MY POSITION THERE IS PRINCIPAL ARCHITECT. AND I DO NETWORK

02:57PM 20

CONSULTING FOR A VARIETY OF CUSTOMERS.

02:57PM 21

Q. AND SO HOW LONG HAVE YOU BEEN IN THE NETWORKING INDUSTRY?

02:57PM 22

A. FOR 35 YEARS.

02:57PM 23

Q. AND JUST GOING BACK IN TIME, HOW DID YOU FIRST GET INVOLVED

02:57PM 24

IN THE NETWORKING INDUSTRY?

02:57PM 25

A. I WAS WORKING AT THE U.S. NAVAL ACADEMY AND WE HAD SOME

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

02:57PM 1 COMPUTER SYSTEMS THAT NEEDED TO COMMUNICATE FILES BACK AND  
02:57PM 2 FORTH, SO WE STARTED USING NETWORKING TO MAKE THAT HAPPEN.

02:57PM 3 Q. OKAY. AND WHAT WAS YOUR POSITION WHILE YOU WERE WORKING  
02:57PM 4 FOR THE UNITED STATES NAVAL ACADEMY?

02:57PM 5 A. ELECTRICAL ENGINEER.

02:57PM 6 Q. AND WHAT WAS YOUR ENGINEERING BACKGROUND BEFORE YOU WERE  
02:57PM 7 HIRED BY THE AND NAVAL ACADEMY?

02:57PM 8 A. I GRADUATED FROM VANDERBILT UNIVERSITY IN 1975. I WORKED  
02:57PM 9 FOR FOUR YEARS AT WESTINGHOUSE ELECTRONICS IN BALTIMORE,  
02:57PM 10 MARYLAND, AND THEN I SWITCHED TO THE NAVAL ACADEMY.

02:57PM 11 Q. AND WHEN YOU FIRST STARTED WORKING AT THE NAVAL ACADEMY,  
02:57PM 12 WHAT TYPE OF EQUIPMENT WERE YOU WORKING ON?

02:57PM 13 A. WE STARTED WITH A BUNCH OF EQUIPMENT, COMPUTER SYSTEMS FROM  
02:57PM 14 DIGITAL EQUIPMENT CORPORATION, AND THEN EVENTUALLY WE WOUND UP  
02:58PM 15 BUYING A CISCO ROUTER TO FACILITATE THE COMMUNICATIONS BETWEEN  
02:58PM 16 THE COMPUTER SYSTEMS.

02:58PM 17 Q. THANK YOU, MR. SLATTERY.

02:58PM 18 DO YOU REMEMBER THE TIMEFRAME WHEN YOU FIRST BOUGHT A CISCO  
02:58PM 19 ROUTER?

02:58PM 20 A. IT WOULD HAVE BEEN AROUND 1987, I THINK.

02:58PM 21 Q. AND WERE YOU INVOLVED IN THE DECISION TO BUY A CISCO ROUTER  
02:58PM 22 FOR THE UNITED STATES NAVAL ACADEMY?

02:58PM 23 A. YES, I WAS.

02:58PM 24 Q. WHY DID YOU DECIDE TO PURCHASE CISCO PRODUCTS AT THE TIME?

02:58PM 25 A. THE COMPUTER SCIENCE DEPARTMENT HAD A PROTEON ROUTER WHICH

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

02:58PM 1 WAS A COMPETITOR AT THAT TIME TO CISCO, AN ASSOCIATE  
02:58PM 2 ORGANIZATION OF THE BALLISTIC RESEARCH LAB HAD A ROUTER THEY  
02:58PM 3 HAD DEVELOPED BASED OFF OF CODE FROM MIT.

02:58PM 4 AND THEN WE TOOK A LOOK AT THE SYSTEM AND SAID, WELL, THIS  
02:58PM 5 IS A DIFFERENT ONE, WE WILL COMPARE THE THREE DIFFERENT SYSTEMS  
02:58PM 6 WITH EACH OTHER.

02:58PM 7 Q. AND AT THAT TIME, DID YOU HAVE A CHANCE TO WORK WITH THE  
02:58PM 8 CISCO USER INTERFACE OR WHAT WE HAVE BEEN CALLING THE  
02:58PM 9 COMMAND-LINE INTERFACE?

02:58PM 10 A. YES, I DID.

02:58PM 11 Q. SO WHAT DO YOU REMEMBER, IF ANYTHING, ABOUT YOUR INITIAL  
02:59PM 12 REACTION WORKING WITH THE CISCO COMMAND-LINE INTERFACE IN 1987?

02:59PM 13 A. IT WAS DIFFERENT. IT WAS NOT THE SAME AS THE COMPUTER  
02:59PM 14 SYSTEMS THAT WE HAD.

02:59PM 15 SO THE COMPUTER SYSTEMS, EVEN THOUGH THEY USED, A SIMILAR  
02:59PM 16 WAY, THEY HAD A COMMAND-LINE INTERFACE, SO YOU TYPED COMMANDS  
02:59PM 17 ON A COMMAND LINE, AND THE CISCO HAD A SIMILAR KIND OF  
02:59PM 18 INTERFACE, BUT THE COMMANDS WERE TOTALLY DIFFERENT.

02:59PM 19 Q. AND DID YOU NOTICE ANYTHING SORT OF UNUSUAL ABOUT SOME OF  
02:59PM 20 THE COMMANDS THAT YOU WERE SEEING FROM CISCO AT THE TIME?

02:59PM 21 A. THEY DIDN'T MATCH ANYTHING I HAD EVER RUN INTO BEFORE.

02:59PM 22 Q. CAN YOU THINK OF A PARTICULAR CLI COMMAND THAT YOU THOUGHT  
02:59PM 23 THIS ONE LOOKS KIND OF UNUSUAL?

02:59PM 24 A. THERE WAS ONE CALLED ACCESS LIST. ACCESS, SPACE, LIST.

02:59PM 25 AND WHAT IT DID WAS TO IDENTIFY -- IT ALLOWED YOU TO

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

02:59PM 1 IDENTIFY PACKETS OF DIFFERENT TYPES SO THAT YOU COULD DO  
02:59PM 2 FILTERING OPERATIONS OR YOU COULD PERMIT PACKETS THROUGH.

03:00PM 3 Q. MR. SLATTERY, WE HAVE A COURT REPORTER, SO I WILL TRY MY  
03:00PM 4 BEST TO SLOW DOWN AND I WILL ASK YOU TO DO THE SAME AS WELL.

03:00PM 5 OKAY. NOW, SINCE YOUR FIRST INTRODUCTION TO CISCO IN THE  
03:00PM 6 1987 TIMEFRAME, DID YOU EVER END UP WORKING FOR CISCO IN ANY  
03:00PM 7 CAPACITY

03:00PM 8 A. YES, I DID. I DID A VARIETY OF CONSULTING PROJECTS.  
03:00PM 9 ACTUALLY, THE INTRODUCTION TO CISCO WAS A PRETTY INTERESTING  
03:00PM 10 STORY.

03:00PM 11 I WOUND UP GOING TO A TRADE SHOW DOWN IN WASHINGTON, D.C.  
03:00PM 12 AND THERE WAS A LITTLE COMPANY CALLED CISCO EXHIBITING THERE.  
03:00PM 13 AND --

03:00PM 14 Q. DID YOU SAY LITTLE COMPANY?

03:00PM 15 A. A LITTLE COMPANY, CISCO. IT WAS A LITTLE COMPANY AT THAT  
03:00PM 16 TIME. I MET THE CEO, BILL GRAVES, AND ANOTHER GENTLEMAN GREG  
03:00PM 17 SATZ. AND IT TURNS OUT THAT GREG SATZ AND I HAD KNOWN EACH  
03:00PM 18 OTHER, WORKED TOGETHER COLLABORATIVELY ON SOME DEC SYSTEM  
03:00PM 19 OPERATING SYSTEM COMMUNICATIONS FOR NETWORKING.

03:00PM 20 SO GREG ASKED ME, WOULD I LIKE TO COME TO WORK FOR CISCO,  
03:01PM 21 BECAUSE HE KNEW MY BACKGROUND. AND I SAID NO, I REALLY DON'T  
03:01PM 22 WANT TO MOVE TO CALIFORNIA. SORRY, I HAD FAMILY AND STUFF IN  
03:01PM 23 MARYLAND.

03:01PM 24 SO INSTEAD WHAT I SUGGESTED WAS PERHAPS I COULD DO SOME  
03:01PM 25 CONSULTING WORK.



DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:01PM 1 Q. AND DID THAT MATERIALIZE INTO ANY SOFTWARE DEVELOPMENT

03:01PM 2 CONSULTING WORK ON BEHALF OF CISCO?

03:01PM 3 A. YES. SO I DID A COUPLE OF PROJECTS FOR GREG, AND THEN HE

03:01PM 4 CAME TO ME AND SAID, I HAVE THIS BIG PROJECT THAT I NEED YOU TO

03:01PM 5 DO. I NEED YOU TO REWRITE OUR PARSER SO IT CAN BE EXTRACTED,

03:01PM 6 JUST THE PARSER, AND MOVE TO OTHER PRODUCTS.

03:01PM 7 Q. NOW BEFORE WE GET INTO THE DETAILS ABOUT THE CONSULTING

03:01PM 8 WORK YOU DID FOR CISCO ON THE PARSER, AFTER THAT POINT IN TIME

03:01PM 9 DID YOU ALSO DO SOME ADDITIONAL CONSULTING WORK FOR CISCO AS

03:01PM 10 WELL?

03:01PM 11 A. I DID SOME OTHER STUFF, YES.

03:01PM 12 Q. OKAY. AND JUST TO BE CLEAR ON THE RECORD, SIR, YOU ARE

03:01PM 13 WORKING IN CONNECTION WITH THIS CASE AS A CONSULTANT, CORRECT?

03:01PM 14 A. YES, I AM.

03:01PM 15 Q. AND SO FOR THE TIME THAT YOU SPENT GATHERING MATERIALS OR

03:02PM 16 PROVIDING INFORMATION TO THE LAWYERS ON BOTH SIDES, YOU WERE

03:02PM 17 COMPENSATED AS A CONSULTANT IN THIS CASE?

03:02PM 18 A. THAT'S CORRECT.

03:02PM 19 Q. AND WHAT WAS THE RATE THAT YOU CHARGED?

03:02PM 20 A. \$350 AN HOUR.

03:02PM 21 Q. AND HOW DOES THAT COMPARE TO YOUR STANDARD CONSULTING RATE?

03:02PM 22 A. MY STANDARD RATE IS \$400 AN HOUR.

03:02PM 23 Q. JUST TO BE CLEAR, YOU ARE NOT BEING PAID FOR YOUR TESTIMONY

03:02PM 24 HERE TODAY?

03:02PM 25 A. THAT IS CORRECT.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:02PM 1 Q. SO LET'S GO BACK TO THE INITIAL CONSULTING WORK THAT YOU  
03:02PM 2 DID FOR CISCO, THAT WAS IN 1990, YOU SAID?

03:02PM 3 A. YES.

03:02PM 4 Q. AND YOU MENTIONED SOMETHING CALLED A PARSER.

03:02PM 5 CAN YOU DESCRIBE TO THE JURY WHAT A PARSER WAS AT THAT TIME  
03:02PM 6 IN THE CONTEXT OF THE CISCO CLI INTERFACE?

03:02PM 7 A. CERTAINLY.

03:02PM 8 THE PARSER IS THE PIECE OF THE PRODUCT OR IT'S A PIECE OF  
03:02PM 9 SOFTWARE THAT WHEN YOU TYPE COMMANDS IN TO IT, CHECKS THOSE  
03:02PM 10 COMMANDS AND MAKES SURE YOU'VE TYPED THEM CORRECTLY AND THEN  
03:02PM 11 FIGURES OUT WHAT THOSE COMMANDS ARE SUPPOSED TO DO AND THEN  
03:02PM 12 EXECUTES THE FUNCTION THAT YOU'VE TOLD IT.

03:02PM 13 SO IF YOU NEEDED TO DO FILTERING ON PACKETS, YOU WOULD USE  
03:03PM 14 THE ACCESS LIST COMMAND. THE PARSER WOULD READ THOSE COMMAND  
03:03PM 15 WORDS, ACCESS LIST AND WHATEVER OTHER PARAMETERS WITH IT, AND  
03:03PM 16 THEN PERFORM THE APPROPRIATE ACTION?

03:03PM 17 Q. AND IN 1990 WHEN THEY APPROACHED YOU FOR THIS THING  
03:03PM 18 FREQUENT, WHAT DID CISCO ASK YOU TO DO WITH THEIR EXISTING CLI  
03:03PM 19 PARSER?

03:03PM 20 A. THEY WANTED TO EXTRACT IT AND MOVE IT INTO OTHER PRODUCTS.  
03:03PM 21 AND THE KEY FUNDAMENTAL THING THAT GREG TOLD ME, GAVE ME  
03:03PM 22 DIRECTION ON, WAS 100 PERCENT BACKWARDS COMPATIBILITY WHICH  
03:03PM 23 MEANT THAT SOMEBODY SITTING DOWN WITH THE OLD PARSER AND NEW  
03:03PM 24 PARSER TYPING COMMANDS, WOULD NOT SEE ANY DIFFERENCE.

03:03PM 25 Q. AND TO BE CLEAR, WHEN YOU SAY 100 PERCENT BACKWARD

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:03PM 1 COMPATIBLE, YOU WERE TALKING ABOUT BEING BACKWARD COMPATIBLE  
03:03PM 2 WITH CISCO PRODUCTS; IS THAT CORRECT?

03:03PM 3 A. CORRECT. JUST THEIR COMMAND LANGUAGE. SO THE SYNTAX HAD  
03:03PM 4 TO BE EXACTLY THE SAME, CHANGE NO COMMANDS.

03:03PM 5 Q. DID THEY TELL YOU ANYTHING ABOUT WHAT YOU COULD DO WITH THE  
03:03PM 6 CODE THAT IMPLEMENTED THE PARSER?

03:03PM 7 A. NO, THERE WAS NO DIRECTION, JUST MAKE IT SO THAT IT'S  
03:03PM 8 PORTABLE SO WE CAN MOVE IT.

03:04PM 9 Q. AND DID YOU FOLLOW THAT GUIDANCE FROM CISCO, DID YOU CHANGE  
03:04PM 10 ANY OF THE COMMANDS?

03:04PM 11 A. WE DID NOT CHANGE ANY OF THE COMMANDS, NO. WE FOLLOWED IT.

03:04PM 12 Q. DID YOU END UP ADDING ANY FUNCTIONALITY TO THE USER  
03:04PM 13 INTERFACE?

03:04PM 14 A. YES, WE DID.

03:04PM 15 IN THE COURSE OF GOING THROUGH AND WRITING THE STUFF,  
03:04PM 16 MYSELF AND THE OTHER MEMBERS OF MY TEAM THAT WERE BETWEEN 2 AND  
03:04PM 17 4 OF US AT DIFFERENT POINTS IN TIME WORKING ON THIS, OVER THE  
03:04PM 18 COURSE OF 18 MONTHS.

03:04PM 19 WE SPENT -- WE HAD SPENT TIME WORKING ON OTHER OPERATING  
03:04PM 20 SYSTEMS THAT PROVIDED SOME LITTLE LEVEL OF HELP, SO YOU COULD  
03:04PM 21 ASK THE SYSTEM, CAN YOU DESCRIBE A COMMAND TO ME. AND LET ME  
03:04PM 22 KNOW WHAT ALL THE WORDS ARE THAT I NEEDED TO TYPE IN FOR A  
03:04PM 23 SPECIFIC COMMAND.

03:04PM 24 AND THAT WAS NOT AVAILABLE IN THE CISCO PARSER AT THE TIME  
03:04PM 25 WE STARTED THE PROJECT.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:04PM 1 Q. AND WAS THERE A NAME THAT YOU GAVE IT, THIS FUNCTIONALITY  
03:04PM 2 THAT YOU WERE GOING TO ADD TO CISCO?

03:04PM 3 A. SO WHAT WE ADDED WAS THE ABILITY TO KEEP A HISTORY OF THE  
03:04PM 4 COMMANDS THAT WERE, THAT HAD BEEN INPUT, ALLOW EDITING OF THOSE  
03:05PM 5 COMMANDS AND PROVIDE HELP ON THOSE COMMANDS.

03:05PM 6 AND SO THE HELP FUNCTIONALITY ALLOWED -- WE BUILT A SYSTEM  
03:05PM 7 SO THAT YOU COULD TYPE QUESTION MARK AT ANY POINT IN TYPING A  
03:05PM 8 COMMAND IN, AND IT WOULD REPLY TO YOU AND TELL YOU WHAT  
03:05PM 9 COMMANDS COULD BE EXPECTED AT THAT TIME.

03:05PM 10 Q. SO LET ME TAKE AN EXAMPLE.

03:05PM 11 SO IF I HAD ON THE PROMPT "SHOW QUESTION MARK," YOUR NEW  
03:05PM 12 SYSTEM WOULD ALLOW YOU TO PROVIDE HELP DESCRIPTIONS FOR THAT,  
03:05PM 13 IS THAT TRUE?

03:05PM 14 A. YES. AND WE WOULD HAVE HELP DESCRIPTIONS FOR EACH ONE OF  
03:05PM 15 THE OPTIONS FOR THE SHOW COMMAND.

03:05PM 16 SO YOU MIGHT HAVE "SHOW INTERFACE," AND THEN IT WOULD SAY,  
03:05PM 17 HELP TEXT WOULD FOLLOW THAT TO SAY, SHOW THE INTERFACES IN THE  
03:05PM 18 PRODUCT.

03:05PM 19 Q. AND THEN IF I THEN WENT AHEAD AND TYPED IN THE OTHER WORDS,  
03:05PM 20 SO I SAID "SHOW INTERFACES," QUESTION MARK, WOULD THE SYSTEM  
03:05PM 21 PROVIDE SOME TYPE OF HELP DESCRIPTION AT THAT POINT AS WELL?

03:05PM 22 A. YES. IT WAS SHOW YOU AT THAT POINT THE LIST OF INTERFACES  
03:06PM 23 THAT WERE ACTUALLY ON THAT SYSTEM.

03:06PM 24 Q. AND HOW -- HOW DID YOU FEEL THAT ADDING THIS TYPE OF  
03:06PM 25 FUNCTIONALITY WITH THE SPECIFIC HELP DESCRIPTIONS IMPROVE THE

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:06PM 1 USER INTERFACE EXPERIENCE?

03:06PM 2 A. IN THE ORIGINAL SYSTEM THAT CAME IN, WHEN WE HAD TO  
03:06PM 3 CONFIGURE IT, WE HAD TO HAVE THE MANUAL RIGHT THERE NEXT TO US.

03:06PM 4 SO WE HAD THE DOCUMENTATION, AND WE WERE SITTING THERE AT  
03:06PM 5 THE KEYBOARD AND WE HAD TO LOOK AT THE MANUAL AND GO, OKAY,  
03:06PM 6 THAT'S THE COMMAND, AND HERE'S HOW IT'S SPELLED, BECAUSE  
03:06PM 7 SOMETIMES THE SPELLING WAS WEIRD.

03:06PM 8 LIKE THERE WAS A -- ONE OF THE COMMANDS THAT WAS ACTUALLY  
03:06PM 9 DONE LATER, THAT STRIKES ME IS ERROR DISABLE. NOW YOU WOULD  
03:06PM 10 THINK IT WOULD BE SPELLED E-R-R-O-R, ERROR DISABLED. WELL  
03:06PM 11 INSTEAD, THEY ABBREVIATED IT, IT'S E-R-R, DISABLED.

03:06PM 12 AND SO YOU HAVE SOME QUIRKS LIKE THAT THAT ARE IN THE  
03:06PM 13 COMMAND LANGUAGE. SO WE HAD TO DO KNOW, SO WE HAD TO HAVE THE  
03:06PM 14 MANUAL THERE TO TYPE IT IN TO MAKE SURE WE GOT IT EXACTLY  
03:07PM 15 RIGHT.

03:07PM 16 BECAUSE IN THE OLD INTERFACE, IF YOU GOT IT, YOU HAD TO GO  
03:07PM 17 BACK AND EXAMINE IT -- I'M SORRY, I'M PROBABLY SPEAKING TOO  
03:07PM 18 QUICKLY. YOU HAD TO GO BACK AND EXAMINE IT AND DETERMINE WHERE  
03:07PM 19 YOU HAD MADE AN ERROR, IT MAY HAVE BEEN A TYPO. AND THEN YOU  
03:07PM 20 HAD TO TYPE THE WHOLE COMMAND OVER AGAIN.

03:07PM 21 SO THERE WAS NO WAY TO GO BACK AND EDIT THE COMMANDS.

03:07PM 22 Q. AND DID YOU HAVE AN OPPORTUNITY AT THE TIME TO ACTUALLY ADD  
03:07PM 23 THIS INTERACTIVE HELP DESCRIPTION SYSTEM ALONG WITH THE HELP  
03:07PM 24 DESCRIPTION TEXT?

03:07PM 25 A. YES, WE DID.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:07PM 1 Q. AND AT THIS TIME I WOULD LIKE TO HAVE YOU LOOK IN THE  
03:07PM 2 BINDER, IT SHOULD BE IN FRONT OF YOU, AT EXHIBIT 5061. AND IF  
03:07PM 3 YOU LOOK AT THE FRONT OF THIS DOCUMENT; DO YOU RECOGNIZE THIS  
03:07PM 4 DOCUMENT?

03:07PM 5 A. YES, I DO. THIS IS A QUARTERLY NEWSLETTER THAT CISCO  
03:08PM 6 PUBLISHED. THIS IS FROM THE THIRD QUARTER OF 1993. AND I  
03:08PM 7 PUBLISHED OR I WROTE AN ARTICLE FOR THIS ISSUE.

03:08PM 8 Q. AND IS THIS THE TYPE OF PUBLICATION THAT CISCO WOULD  
03:08PM 9 PUBLISH REGULARLY AS PART OF ITS BUSINESS?

03:08PM 10 A. EVERY QUARTER, YES.

03:08PM 11 MR. PAK: YOUR HONOR, I WOULD LIKE TO ADMIT INTO  
03:08PM 12 EVIDENCE 5061.

03:08PM 13 MR. KWUN: NO OBJECTION.

03:08PM 14 THE COURT: IT WILL BE ADMITTED.

03:08PM 15 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 5061, HAVING BEEN  
03:08PM 16 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
03:08PM 17 EVIDENCE.)

03:08PM 18 MR. PAK: LET'S PULL THAT OUT, MR. FISHER. AND IF  
03:08PM 19 YOU COULD BLOW UP THE TOP PORTION OF THAT.

03:08PM 20 Q. THIS SAYS CISCO SYSTEMS USER'S MAGAZINE VOLUME V NUMBER  
03:08PM 21 THREE, THIRD QUARTER 1993; IS THAT RIGHT?

03:08PM 22 A. THAT'S CORRECT.

03:08PM 23 Q. AND IT'S TITLED *THE PACKET*?

03:08PM 24 A. THE PACKET, YES.

03:08PM 25 Q. SO THEN DO YOU SEE ON THE RIGHT-HAND SIDE, IT SAYS, THERE'S

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:08PM 1 SOME HEADINGS THERE, AND IT TALKS ABOUT USER PROFILES AND SO  
03:08PM 2 ON, AND LET'S JUMP TO THE PAGE THAT I THINK HAS YOUR ARTICLE IN  
03:09PM 3 IT, THAT'S PAGE 18. IF YOU COULD BLOW UP THE TOP OF THAT.

03:09PM 4 AND CAN YOU READ INTO THE RECORD, MR. SLATTERY, THE TITLE  
03:09PM 5 OF YOUR ARTICLE THAT WAS PUBLISHED?

03:09PM 6 A. THE TITLE IS *FRIENDLIER THAN EVER*. CISCO'S COMMUNICATION  
03:09PM 7 SERVERS SUPPORT ENHANCED USER INTERFACE.

03:09PM 8 Q. AND THAT'S YOUR NAME, TERRANCE SLATTERY, THERE?

03:09PM 9 A. THAT IS ME, YES.

03:09PM 10 Q. THERE'S A COMPANY CALLED CHESAPEAKE COMPUTER CONSULTANTS  
03:09PM 11 WAS THAT THE NAME OF YOUR COMPANY AT THE TIME?

03:09PM 12 A. YES, IT WAS.

03:09PM 13 Q. AND THEN ON THE LEFT-HAND SIDE CAN YOU READ INTO THE RECORD  
03:09PM 14 THE TEXT THAT APPEARS AT THE LEFT-HAND CORNER WITH THE NEW USER  
03:09PM 15 INTERFACE?

03:09PM 16 A. THE NEW USER INTERFACE FOR CISCO'S COMMUNICATION SERVERS  
03:09PM 17 ALSO WILL BE SUPPORTED FOR ROUTERS IN A FUTURE SOFTWARE  
03:09PM 18 RELEASE.

03:09PM 19 Q. AND WHAT WAS THE PURPOSE OF YOU WRITING THIS ARTICLE THAT  
03:09PM 20 WOULD BE PUBLISHED IN A CISCO PUBLICATION AT THE TIME?

03:09PM 21 A. TO HELP COMMUNICATE THE NEW USER INTERFACE AND A LITTLE BIT  
03:10PM 22 ABOUT HOW IT WORKS TO CISCO'S CUSTOMERS.

03:10PM 23 Q. OKAY. AND THEN LET'S TAKE A LOOK AT PAGE 18. AT THE  
03:10PM 24 BOTTOM THERE'S A COMMAND SYNTAX UP TO THE RIGHT, MR. FISHER, TO  
03:10PM 25 THE RIGHT-HAND SIDE, SORRY.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:10PM 1 AND CAN YOU EXPLAIN WHAT YOU WERE DESCRIBING HERE WITH THE  
03:10PM 2 SECTION TITLED COMMAND SYNTAX HELP?

03:10PM 3 A. THIS IS SIMILAR TO THE DESCRIPTION I JUST GAVE, WHEN YOU  
03:10PM 4 ARE TYPING A COMMAND IN, AT ANY POINT YOU CAN HIT QUESTION  
03:10PM 5 MARK, AND IT WILL PROVIDE HELP FOR YOU INDICATING WHAT COMMANDS  
03:10PM 6 OR WHAT WORDS ARE POSSIBLE IN A COMMAND AT THAT POINT.

03:10PM 7 Q. AND THEN LET'S TAKE A LOOK AT THE EXAMPLES THAT ARE GIVEN  
03:10PM 8 AT THE BOTTOM STARTING WITH EXAMPLE ONE. IT'S A LITTLE BIT  
03:10PM 9 HARD TO READ, BUT MAYBE YOU CAN DESCRIBE WHAT WE ARE SEEING  
03:10PM 10 HERE TO THE JURY.

03:10PM 11 A. YES. SO THIS IS AN EXAMPLE OF SOMEONE WORKING THROUGH  
03:10PM 12 INPUTTING A COMMAND, THE COMMAND APPEARS DOWN AT THE BOTTOM.  
03:11PM 13 BUFFERS, SMALL, PERMANENT, 200.

03:11PM 14 IN THE OLD INTERFACE, YOU WOULD HAVE TO REMEMBER ALL OF  
03:11PM 15 THOSE WORDS AND TYPE THEM IN EXACTLY. WITH THE NEW INTERFACE,  
03:11PM 16 YOU WOULD TYPE IN BUFFERS, AND THEN QUESTION MARK. AND IT  
03:11PM 17 SHOWS THAT YOU COULD DO BIG, HUGE, LARGE, MIDDLE, AND SMALL  
03:11PM 18 BUFFERS.

03:11PM 19 SO THERE ARE DIFFERENT SIZES OF BUFFERS YOU CAN CONFIGURE.  
03:11PM 20 AND THEN WE SELECTED SMALL, THEN HIT QUESTION MARK AGAIN. AND  
03:11PM 21 WE COULD SEE INITIAL BUFFERS, THEN THE HELP TEXT BESIDE THAT,  
03:11PM 22 TEMPORARY BUFFERS, ALLOCATED AT SYSTEM RELOAD.

03:11PM 23 SO THAT WAS THE HELP THAT WE CREATED. THE HELP TEXT. AND  
03:11PM 24 THAT WAS NEW FUNCTIONALITY THAT PREVIOUSLY DID NOT EXIST.

03:11PM 25 Q. LET'S LOOK AT ONE MORE EXAMPLE WHICH IS I BELIEVE ON



DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:11PM 1 PAGE 19, EXAMPLE TWO IN THE DOCUMENT. THAT'S AT THE TOP.

03:11PM 2 AND CAN YOU WALK US BRIEFLY THROUGH THIS EXAMPLE TWO FROM  
03:11PM 3 YOUR ARTICLE.

03:12PM 4 A. SURE.

03:12PM 5 SO THE CISCO COMMAND, EVEN IN THE ORIGINAL PARSER, WOULD  
03:12PM 6 ACCEPT ABBREVIATIONS OF COMMANDS. SO AS LONG AS WHAT YOU HAD  
03:12PM 7 TYPED IN WAS UNIQUE, IT WOULD ACCEPT THAT COMMAND.

03:12PM 8 SO HERE'S AN EXAMPLE WHERE WE ARE TYPING IN CO, AND GOSH, I  
03:12PM 9 DON'T QUITE REMEMBER HOW TO SPELL THE REST OF IT, LET ME TYPE  
03:12PM 10 QUESTION MARK.

03:12PM 11 WELL, I HAVE AN OPTION OF CONFIGURE, COMMENT OR COPY. THEY  
03:12PM 12 ALL START WITH THE LETTER CO. AND THEN WE FINISH THE WORD  
03:12PM 13 CONFIGURE, SPACE, THEN HIT QUESTION MARK.

03:12PM 14 WHAT ARE MY OPTIONS HERE? I HAVE THREE OPTIONS, MEMORY,  
03:12PM 15 NETWORK OR TERMINAL. AND THEN THERE'S HELP TEXT ASSOCIATED  
03:12PM 16 WITH EACH ONE OF THOSE.

03:12PM 17 I DECIDED TO PICK TERMINAL HERE, CONFIGURE FROM THE  
03:12PM 18 TERMINAL, SO I'M GOING TO TYPE IN CONFIGURATION COMMANDS FROM  
03:12PM 19 THE TERMINAL. AND THEN WHEN I SAY, TERMINAL, I HIT ENTER, AND  
03:12PM 20 THEN THE COMMAND PROMPT CHANGES.

03:12PM 21 Q. AND WE TALKED ABOUT THAT WITH SOME OF THE OTHER WITNESSES.  
03:12PM 22 SO NOW THIS CONFIG PROMPT, WHAT TYPE OF MODE DOES THAT INDICATE  
03:13PM 23 TO THE USER AT THIS POINT?

03:13PM 24 A. THE CISCO CLI HAD SEVERAL MODES TO IT. SO THERE WAS THE  
03:13PM 25 INITIAL EXECUTIVE MODE THAT ALLOWED YOU TO DO THINGS LIKE

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:13PM 1 TROUBLE SHOOTING OR SHOW COMMANDS, THINGS LIKE THAT.

03:13PM 2 THEN THERE'S THE CONFIGURATION MODE WHERE YOU ACTUALLY

03:13PM 3 CHANGE PERMANENTLY, THE CONFIGURATION OF THE BOX. AND THEN

03:13PM 4 WITHIN CONFIGURATION MODE, THERE WERE OTHER CONFIGURATION MODES

03:13PM 5 FOR CONFIGURING INTERFACE OR CONFIGURING A ROUTING PROTOCOL.

03:13PM 6 SO ONE OF THE THINGS THAT ALWAYS BUGGED US WAS WE DIDN'T

03:13PM 7 QUITE REMEMBER ALL THE TIME WHAT MODE WE WERE IN, PARTICULARLY

03:13PM 8 IF SOMEONE CAME AND BUGGED US WITH A QUESTION AND I TURNED BACK

03:13PM 9 AROUND AND SAID OKAY, WHERE WAS I, WHAT WAS I DOING.

03:13PM 10 AND SO WHAT WE DID WAS WE ADDED IN THESE PROMPTS TO WHAT

03:13PM 11 MODE YOU WERE IN.

03:13PM 12 Q. AND HAD YOU SEEN BEFORE YOUR WORK WITH CISCO, ANY TYPE OF

03:13PM 13 ROUTING OR NETWORKING EQUIPMENT THAT HAD A CONFIGURATION MODE

03:13PM 14 AND AN INTERFACE CONFIGURATION MODE?

03:13PM 15 A. NO, I HAD NOT. AND I DON'T RECALL ANY SYSTEM HAVING

03:14PM 16 PROMPTING THAT CHANGED LIKE THIS WHEN YOU CHANGED MODES.

03:14PM 17 Q. AND FOCUSING NOW ON THESE SPECIFIC HELP DESCRIPTIONS AND

03:14PM 18 WE SAW SOME EXAMPLES OF THAT, WHO CAME UP WITH THOSE HELP

03:14PM 19 DESCRIPTIONS BACK IN THIS TIME PERIOD OF 1990?

03:14PM 20 A. MY TEAM DID.

03:14PM 21 Q. OKAY. AND THAT WAS YOU AND OTHERS WHO WERE WORKING WITH

03:14PM 22 YOU AT THE TIME?

03:14PM 23 A. YES, AT CHESAPEAKE.

03:14PM 24 Q. AT CHESAPEAKE.

03:14PM 25 AND YOU HAD A CONSULTING AGREEMENT WITH CISCO SO THE WORK

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:14PM 1 YOU WERE DOING WAS FOR CISCO AT THE TIME?

03:14PM 2 A. THAT IS CORRECT.

03:14PM 3 Q. OKAY.

03:14PM 4 AND CAN YOU WALK US THROUGH AT A HIGH LEVEL, WE ARE NOT  
03:14PM 5 GOING TO OBVIOUSLY GO THROUGH EVERY HELP DESCRIPTION TODAY, BUT  
03:14PM 6 CAN YOU WALK US THROUGH AT A HIGH LEVEL THE PROCESS YOU AND  
03:14PM 7 YOUR TEAM USED TO COME UP WITH THESE SPECIFIC HELP DESCRIPTIONS  
03:14PM 8 FOR YOUR SYSTEM?

03:14PM 9 A. SURE.

03:14PM 10 WE USED TWO PRIMARY THINGS. WE WOULD TAKE THE CISCO  
03:14PM 11 DOCUMENTATION THAT CISCO HAD CREATED AND WE WOULD READ THAT  
03:14PM 12 PARTICULAR COMMAND WE WERE IMPLEMENTING.

03:14PM 13 THEN WE WOULD ALSO LOOK AT THE CISCO SOURCE CODE FROM THE  
03:15PM 14 OLD PARSER AND WE WOULD FIGURE OUT WHAT DID THE OLD SYSTEM DO,  
03:15PM 15 MAKE SURE IT MATCHED WHAT THE TEXT IN THE MANUAL SAID, BECAUSE  
03:15PM 16 SOMETIMES IT DIDN'T MATCH, WHICH WAS REALLY INTERESTING. BUT  
03:15PM 17 THEN WE MADE SURE THEY MATCHED.

03:15PM 18 THEN BASED ON THOSE TWO SOURCES OF INFORMATION, WE CREATED  
03:15PM 19 THE TEXT FOR THE HELP.

03:15PM 20 Q. AND WERE YOU JUST COPYING TEXT OUT OF MANUALS TO PUT INTO  
03:15PM 21 THESE HELP DESCRIPTIONS OR WHAT WAS THE PROCESS THERE?

03:15PM 22 A. NO, WE DID NOT. AND THE REASON IS THAT THAT TEXT TYPICALLY  
03:15PM 23 WAS A PARAGRAPH OR SEVERAL SENTENCES AND THE DISPLAYS IN THOSE  
03:15PM 24 DAYS WERE FAIRLY SMALL, SO WE DIDN'T HAVE A LOT OF SCREEN REAL  
03:15PM 25 ESTATE TO PUT OUT A LOT OF TEXT.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:15PM 1 SO WHAT WE DID IS WE CREATED SOME SHORTER HELP TEXT TO PUT  
03:15PM 2 ON THE SCREENS, JUST AS YOU SAW IN THE EXAMPLES.

03:15PM 3 Q. AND WERE YOU CONSULTING ANY OTHER SOURCES OUTSIDE OF CISCO,  
03:15PM 4 WERE YOU LOOKING AT INDUSTRY DOCUMENTS OR OTHER SYSTEMS WHEN  
03:15PM 5 YOU WERE CREATING THESE HELP DESCRIPTIONS?

03:15PM 6 A. NO, WE WERE NOT.

03:15PM 7 Q. AND WAS THERE ANY TECHNICAL CONSTRAINT OR RESTRICTION OR  
03:16PM 8 FUNCTIONAL DEMAND THAT SAID YOU HAVE TO USE THESE PARTICULAR  
03:16PM 9 WORDS FOR ANY OF THESE HELP DESCRIPTIONS?

03:16PM 10 A. NO.

03:16PM 11 Q. I THINK GOOGLE IS WITH US EVERYWHERE.

03:16PM 12 AND DID CISCO TELL YOU ABOUT ANY SPECIFIC RESTRICTIONS OR  
03:16PM 13 GUIDANCE ON THESE HELP DESCRIPTIONS THAT YOU WERE COMING UP  
03:16PM 14 WITH AT THE TIME?

03:16PM 15 A. NO.

03:16PM 16 Q. AND HOW LONG DID THIS PROJECT TAKE?

03:16PM 17 A. 18 MONTHS.

03:16PM 18 Q. OKAY. AND HOW MANY PEOPLE WORKED ON THAT PROJECT?

03:16PM 19 A. AVERAGED OUT, IT WAS BETWEEN 2 AND 4 PEOPLE AND AVERAGED  
03:16PM 20 OUT ABOUT TWO AND A HALF PEOPLE, IF YOU WILL, FULL TIME  
03:16PM 21 EQUIVALENCE.

03:16PM 22 Q. AND HAVE YOU GOTTEN FEEDBACK OVER THE YEARS OF  
03:16PM 23 CISCO-TRAINED CUSTOMERS OR ENGINEERS WHO HAVE HAD A CHANCE TO  
03:16PM 24 WORK WITH THE INTERACTIVE HELP DESCRIPTIONS AND BE ABLE TO SEE  
03:16PM 25 THESE HELP DESCRIPTIONS IN PLAY?

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:16PM 1 MR. KWUN: OBJECTION, YOUR HONOR. HEARSAY.

03:17PM 2 THE COURT: I WILL LET HIM ANSWER THIS QUESTION AND  
03:17PM 3 SEE WHERE IT GOES NEXT. THIS IS A YES OR NO.

03:17PM 4 MR. PAK: YES OR NO.

03:17PM 5 THE WITNESS: PLEASE ASK THE QUESTION AGAIN.

03:17PM 6 BY MR. PAK:

03:17PM 7 Q. LET ME PHRASE IT THIS WAY, YOUR HONOR.

03:17PM 8 AS ONE OF THE TEAM MEMBERS WHO WORKED ON THE INTERACTIVE  
03:17PM 9 HELP DESCRIPTION AND AUTHORED THE HELP DESCRIPTION TEXT, HOW DO  
03:17PM 10 YOU THINK THAT IMPROVED THE USER EXPERIENCE, FROM YOUR  
03:17PM 11 PERSPECTIVE?

03:17PM 12 A. IT CERTAINLY HAS HELPED ME A LOT, BECAUSE I DON'T HAVE TO  
03:17PM 13 MEMORIZE THE HUNDREDS AND HUNDREDS OF COMMANDS THAT EXIST IN  
03:17PM 14 THE INTERFACE.

03:17PM 15 Q. AND CISCO HAS LOTS OF PRODUCTS, ISN'T THAT RIGHT?

03:17PM 16 A. THEY HAVE LOT OF PRODUCTS.

03:17PM 17 Q. SO THEY HAVE LOTS OF COMMANDS IN THEIR IOS AND OPERATING  
03:17PM 18 SYSTEMS?

03:17PM 19 A. AND MANY OF THESE COMMANDS ARE CHALLENGING TO REMEMBER ALL  
03:17PM 20 THE PARAMETERS THAT GET INPUT.

03:17PM 21 Q. I WANT TO SWITCH GEARS A LITTLE BIT AND TALK ABOUT  
03:17PM 22 SOMETHING THAT WE MIGHT HAVE SEEN IN THIS CASE CALLED CCIE.

03:17PM 23 ARE YOU FAMILIAR WITH THAT ACRONYM?

03:17PM 24 A. YES, I AM.

03:18PM 25 Q. WHAT DOES CCIE STAND FOR?

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:18PM 1 A. CCIE IS THE CISCO CERTIFIED INTERNET WORK EXPERT, AND IT'S  
03:18PM 2 A PROGRAM THAT CISCO PUT TOGETHER TO IDENTIFY INDIVIDUALS WHO  
03:18PM 3 ARE EXPERTS USING CISCO EQUIPMENT.

03:18PM 4 Q. AND ARE YOU CERTIFIED PERSONALLY AS A CCIE EXPERT?

03:18PM 5 A. YES, I AM.

03:18PM 6 Q. OKAY. AND WHEN DID YOU GET THAT CERTIFICATION?

03:18PM 7 A. 1993.

03:18PM 8 Q. AND DO YOU KNOW HOW MANY OTHER PEOPLE IN THE WORLD HAD  
03:18PM 9 TAKEN AND GOTTEN A CCIE CERTIFICATION BEFORE YOU?

03:18PM 10 A. THE LAST TIME I CHECKED, THE NUMBER WAS OVER 40,000.

03:18PM 11 Q. I'M TALKING ABOUT THE PEOPLE BEFORE YOU?

03:18PM 12 A. OH, BEFORE ME, I'M SORRY.

03:18PM 13 Q. YES. SO WHAT YOU WERE TALKING ABOUT WAS 40,000 AFTER --

03:18PM 14 A. TOTAL, YES. THAT WAS THE LAST TIME I CHECKED. THERE WAS  
03:18PM 15 ONLY ONE IN FRONT OF ME, AND IT TURNS OUT THAT PERSON WAS  
03:18PM 16 STEWART BIGS, HE PUT THE TEST TOGETHER, AND I'M THE FIRST  
03:18PM 17 PERSON TO ACTUALLY GO AND TAKE THE TEST.

03:18PM 18 SO IN A WAY OF SAYING, I'M THE SECOND CCIE FROM SOME  
03:18PM 19 PERSPECTIVES, AND I'M THE FIRST FROM A DIFFERENT PERSPECTIVE.

03:19PM 20 Q. AND GENERALLY SPEAKING DOES CCIE TRAINING INVOLVE TRAINING  
03:19PM 21 ON BASIC NETWORK PROTOCOLS AND CONCEPTS AND SO ON AS WELL AS  
03:19PM 22 SPECIFIC TRAINING ON THE CLI?

03:19PM 23 A. YES, IT DOES.

03:19PM 24 Q. OKAY. AND YOU MENTIONED THAT YOU GOT THE CCIE  
03:19PM 25 CERTIFICATION IN 1993. HAVE YOU REMAINED CCIE CERTIFIED SINCE

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:19PM 1

THEN?

03:19PM 2

A. YES, I AM.

03:19PM 3

Q. OKAY. AND I THINK YOU MENTIONED THIS, BUT TO YOUR

03:19PM 4

KNOWLEDGE THERE ARE AROUND 40,000 OR MORE THAN 40,000 CCIE'S

03:19PM 5

AROUND THE WORLD?

03:19PM 6

A. YES.

03:19PM 7

Q. IN YOUR COURSE -- IN THE COURSE OF YOUR WORK AS A NETWORK

03:19PM 8

ENGINEER, HAVE YOU BECOME FAMILIAR WITH USER INTERFACES OTHER

03:19PM 9

THAN CISCO'S FOR NETWORKING EQUIPMENT?

03:19PM 10

A. YES.

03:19PM 11

Q. AND WHICH ONES IN PARTICULAR?

03:19PM 12

A. I'VE SEEN THE JUNIPER INTERFACE, F5, PALO ALTO, THOSE ARE

03:19PM 13

THE ONES THAT COME TO MIND OFF HAND.

03:19PM 14

Q. AND AS PART OF YOUR WORK AS A NETWORKING CONSULTANT, WHEN

03:20PM 15

YOU LOOK AT THE JUNIPER USER INTERFACE, WHAT TYPE OF OPERATING

03:20PM 16

SYSTEM IS THAT, THAT JUNIPER RUNS, DO YOU KNOW?

03:20PM 17

MR. KWUN: OBJECTION, YOUR HONOR.

03:20PM 18

THIS IS EXPERT TESTIMONY.

03:20PM 19

MR. PAK: THIS IS BASED ON HIS PERSONAL EXPERIENCE,

03:20PM 20

YOUR HONOR.

03:20PM 21

THE COURT: WE ARE JUST TALKING AT A HIGH LEVEL?

03:20PM 22

MR. PAK: YES.

03:20PM 23

THE COURT: I WILL ALLOW THAT AT A HIGH LEVEL.

03:20PM 24

OVERRULED.

03:20PM 25

THE WITNESS: I THINK THEY CALL THEIR SYSTEM JUNOS.

DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:20PM 1 J-U-N-O-S.

03:20PM 2 BY MR. PAK:

03:20PM 3 Q. AND AS A NETWORKING CONSULTANT, WHEN YOU USE THE JUNEOS  
03:20PM 4 USER INTERFACE FROM JUNIPER, HOW DOES THAT EXPERIENCE COMPARE  
03:20PM 5 TO THE EXPERIENCE OF USING A CISCO USER INTERFACE?

03:20PM 6 MR. KWUN: OBJECTION, YOUR HONOR. FOUNDATION.

03:20PM 7 IT'S ALSO VERGING FURTHER INTO THE EXPERT TESTIMONY.

03:20PM 8 THE COURT: OVERRULED. JUST BASED ON YOUR PERSONAL  
03:20PM 9 EXPERIENCE.

03:20PM 10 THE WITNESS: OKAY. BASED ON MY PERSONAL EXPERIENCE,  
03:20PM 11 THE JUNIPER COMMAND SYNTAX IS VASTLY DIFFERENT THAN THE CISCO  
03:20PM 12 COMMAND SYNTAX.

03:20PM 13 THE INTERACTIVE FEATURES OF BEING ABLE TO EDIT THE COMMAND  
03:21PM 14 LINES EXIST IN BOTH PRODUCTS, SO THAT SORT OF FUNCTIONALITY IS  
03:21PM 15 SIMILAR, BUT THE COMMANDS ARE VERY, VERY DIFFERENT FOR DOING  
03:21PM 16 EQUIVALENT FUNCTIONS.

03:21PM 17 BY MR. PAK:

03:21PM 18 Q. OKAY. AND ARE YOU FAMILIAR WITH, THIS AGAIN, THIS IS BASED  
03:21PM 19 ON YOUR PERSONAL EXPERIENCE, MR. SLATTERY, ARE YOU FAMILIAR  
03:21PM 20 WITH ANY SPECIFIC COMMANDS THAT YOU'VE USED THAT IS DIFFERENT  
03:21PM 21 BETWEEN CISCO'S USER INTERFACE AND THE JUNIPER USER INTERFACE?

03:21PM 22 A. ON THE CISCO SIDE, ONE IN PARTICULAR THAT I RECALL, IT'S  
03:21PM 23 VERY SIMPLE, YOU TYPICALLY NETWORKS GIVE A NAME TO EACH ONE OF  
03:21PM 24 THE NETWORK COMPONENTS SO THAT YOU CAN UNIQUELY IDENTIFY IT IN  
03:21PM 25 A VARIETY OF WAYS FOR A VARIETY OF PURPOSES.



DIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:21PM 1 SO THERE'S A COMMAND CALLED HOST NAME, AND YOU GIVE IT THE  
03:21PM 2 NAME OF THE SYSTEM. CISCO'S IS EXACTLY THAT, HOST NAME, AND  
03:21PM 3 THEN THE NAME YOU GIVE IT.

03:21PM 4 ON THE JUNOS SYSTEM, THERE ARE TWO DIFFERENT MECHANISMS,  
03:22PM 5 BUT THE SIMPLEST ONE IS SET, HOST NAME, THEN THE NAME OF THE  
03:22PM 6 BOX.

03:22PM 7 Q. THEY PERFORM THE SAME FUNCTION BUT THEY USE DIFFERENT  
03:22PM 8 COMMANDS?

03:22PM 9 A. YES.

03:22PM 10 Q. I THINK WE'VE SEEN THIS IN THE CASE, BUT MR. SLATTERY, HAVE  
03:22PM 11 YOU WRITTEN SOME ARTICLES ABOUT CISCO'S POSITION AS A MARKET  
03:22PM 12 LEADER, PARTICULARLY WITH RESPECT TO THE CLI?

03:22PM 13 A. YES.

03:22PM 14 Q. OKAY. AND DO YOU RECALL IN SOME OF THOSE ARTICLES YOU  
03:22PM 15 TALKED ABOUT OTHER COMPANIES POSSIBLY EMULATING WHAT CISCO HAD  
03:22PM 16 DONE IN TERMS OF THE CLI?

03:22PM 17 A. YES.

03:22PM 18 Q. WHAT DID YOU MEAN WHEN YOU SAID THAT OTHER COMPANIES TRY TO  
03:22PM 19 EMULATE WHAT CISCO HAS DONE WITH THEIR CLI?

03:22PM 20 A. I MEANT -- OKAY. EMULATION, TO ME, MEANS THAT THE  
03:22PM 21 FUNCTIONALITY IS SOMEWHAT SIMILAR, BUT IT IS NOT A DIRECT COPY.

03:22PM 22 SO FOR ME, HAVING INTERACTIVE HELP, BEING ABLE TO EDIT THE  
03:23PM 23 COMMANDS, THINGS LIKE THAT ARE PART OF THE EMULATION. THE FACT  
03:23PM 24 THAT THE COMMANDS SYNTAX ARE DIFFERENT, DOESN'T MATTER A WHOLE  
03:23PM 25 LOT TO ME.

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:23PM 1 Q. OKAY. AND DID YOU MEAN EMULATE TO MEAN COPY WHEN YOU WROTE  
03:23PM 2 THOSE WORDS?

03:23PM 3 A. NO, SPECIFICALLY NOT.

03:23PM 4 Q. AND WERE YOU SPECIFICALLY SUGGESTING IN THOSE ARTICLES THAT  
03:23PM 5 OTHER COMPANIES SHOULD COPY THE CISCO COMMANDS, THE CISCO  
03:23PM 6 OUTPUTS, AND THE CISCO HELP DESCRIPTIONS THAT YOU HELPED TO  
03:23PM 7 CREATE?

03:23PM 8 A. NO.

03:23PM 9 MR. PAK: WITH THAT, YOUR HONOR, I PASS THE WITNESS.

03:23PM 10 THE COURT: THANK YOU.

03:23PM 11 MR. KWUN, CROSS-EXAMINATION?

03:23PM 12 MR. KWUN: YOUR HONOR, MAY I APPROACH THE WITNESS?

03:23PM 13 THE COURT: YES.

03:23PM 14

03:23PM 15 **CROSS-EXAMINATION BY MR. KWUN**

03:24PM 16

03:24PM 17 Q. MR. SLATTERY, WE HAVEN'T MET BEFORE, HAVE WE?

03:24PM 18 A. NOT TO MY KNOWLEDGE.

03:24PM 19 Q. LET ME INTRODUCE MYSELF. MY NAME IS MICHAEL KWUN. I'M ONE  
03:24PM 20 OF THE ATTORNEYS REPRESENTING ARISTA IN THIS CASE.

03:24PM 21 A. GOOD TO MEET YOU.

03:24PM 22 Q. GOOD AFTERNOON.

03:24PM 23 SO YOU TESTIFIED THAT YOU CONTRACTED WITH CISCO IN 1990 TO  
03:24PM 24 WORK ON THE CLI; IS THAT CORRECT?

03:24PM 25 A. YES.

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:24PM 1 Q. AND YOU MENTIONED YOU HAD A TEAM OF UP TO FOUR PEOPLE, THAT  
03:24PM 2 WAS INCLUDING YOURSELF, CORRECT?

03:24PM 3 A. THAT IS CORRECT.

03:24PM 4 Q. AND THE OTHER THREE PEOPLE, THAT WAS BRENT PICALLO, ROBERT  
03:24PM 5 WHITMER AND PETER WALTRIP?

03:24PM 6 A. CORRECT.

03:24PM 7 Q. WHEN WAS THE LAST TIME YOU SPOKE TO ANY OF THOSE THREE  
03:25PM 8 GENTLEMAN ABOUT THIS PROJECT?

03:25PM 9 A. I THINK I ASKED ROBERT WHITMER OR SOMETHING IN AN E-MAIL  
03:25PM 10 THREE WEEKS AGO.

03:25PM 11 Q. WHAT ABOUT THE OTHERS?

03:25PM 12 A. NO. I DON'T KNOW WHERE BRENT IS THESE DAYS.

03:25PM 13 Q. SO IT WOULD HAVE BEEN OVER A DECADE?

03:25PM 14 A. YES.

03:25PM 15 Q. AND ASIDE FROM YOUR E-MAIL WITH MR. WHITMER THREE WEEKS  
03:25PM 16 AGO, WHEN WAS THE LAST COMMUNICATION YOU HAD WITH HIM ABOUT  
03:25PM 17 THIS PROJECT?

03:25PM 18 A. ABOUT THIS PROJECT? BEGINNING OF THIS YEAR.

03:25PM 19 Q. HOW ABOUT BEFORE THIS LAWSUIT WAS FILED?

03:25PM 20 A. NO.

03:25PM 21 Q. AGAIN, DECADES?

03:25PM 22 A. I GUESS YOU NEED TO CLARIFY FOR ME. I DON'T UNDERSTAND  
03:25PM 23 WHAT KIND OF COMMUNICATIONS YOU ARE ASKING FOR HERE.

03:25PM 24 Q. COMMUNICATIONS ABOUT THE WORK THAT YOU DID FOR CISCO THAT  
03:25PM 25 YOU ALL DID FOR CISCO BETWEEN 1990 AND '91?

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:25PM 1 A. NO, WE BASICALLY HAVE NOT TALKED ABOUT IT VERY MUCH SINCE  
03:26PM 2 THE TIME THAT WE FINISHED THE PROJECT.

03:26PM 3 Q. AND YOU SAID THAT THE PROJECT THAT YOU WORKED ON, YOU AND  
03:26PM 4 YOUR TEAM, THAT THAT TOOK ABOUT 18 MONTHS?

03:26PM 5 A. YES.

03:26PM 6 Q. AND YOUR TASK WAS TO REBUILD THE CISCO CLI PARSER, CORRECT?

03:26PM 7 A. YES.

03:26PM 8 Q. DURING THAT 18-MONTH PROJECT, YOU AND YOUR TEAM DIDN'T  
03:26PM 9 DEVELOP ANY NEW COMMANDS, JUST SOME NEW FUNCTIONALITY; IS THAT  
03:26PM 10 CORRECT?

03:26PM 11 A. THAT IS NOT CORRECT.

03:26PM 12 Q. WHAT COMMANDS DID YOU ADD?

03:26PM 13 A. WE ADDED A FEW COMMANDS TO ENABLE TURNING ON COMMAND  
03:26PM 14 EDITING AND TURNING OFF COMMAND EDITING. SO THERE WERE SOME, I  
03:26PM 15 THINK IT WAS FOUR OR FIVE COMMANDS THAT WE ADDED.

03:26PM 16 Q. OTHER THAN COMMANDS RELATED TO THE NEW EDITING  
03:26PM 17 FUNCTIONALITY THAT YOUR TEAM ADDED, YOU DIDN'T ADD ANY NEW  
03:26PM 18 COMMANDS TO THE CLI; IS THAT CORRECT?

03:26PM 19 A. THAT'S CORRECT.

03:26PM 20 Q. YOU MENTIONED THAT YOU WERE TOLD TO MAKE THE CLI  
03:27PM 21 100 PERCENT BACKWARDS COMPATIBLE; DO YOU REMEMBER THAT?

03:27PM 22 A. YES.

03:27PM 23 Q. AND TO MEET THAT GOAL OF 100 PERCENT BACKWARDS  
03:27PM 24 COMPATIBILITY, YOU AND YOUR TEAM HAD TO USE ALL OF THE SAME  
03:27PM 25 USER COMMANDS THAT WERE RECOGNIZED IN THE PRIOR SYSTEM,

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:27PM 1

CORRECT?

03:27PM 2

A. RIGHT.

03:27PM 3

Q. AND IN FACT, ISN'T IT TRUE THAT CISCO HASN'T IDENTIFIED YOU

03:27PM 4

AS THE AUTHOR OF SOME OF THE COMMAND NAMES THAT ARE AT ISSUE IN

03:27PM 5

THIS CASE?

03:27PM 6

A. I'M SORRY, ASK THAT A LITTLE BIT SLOWER. I'M NOT SURE I

03:27PM 7

FOLLOWED IT.

03:27PM 8

Q. YES.

03:27PM 9

ISN'T IT TRUE THAT CISCO, IN THIS CASE, HAS NOT IDENTIFIED

03:27PM 10

YOU AS THE AUTHOR OF ANY OF THE COMMAND NAMES THAT IT CLAIMS

03:27PM 11

THAT ARISTA COPIED?

03:27PM 12

A. I'M NOT SURE, I DON'T HAVE VISIBILITY INTO THAT.

03:27PM 13

Q. SO LET'S TURN TO THE HELP DESCRIPTIONS THAT YOU WERE

03:27PM 14

TALKING ABOUT. THESE ARE THE DESCRIPTIONS THAT YOU GET WHEN

03:27PM 15

YOU TYPE IN A QUESTION MARK IN THE CLI, CORRECT?

03:28PM 16

A. CORRECT.

03:28PM 17

Q. AND YOU TESTIFIED THAT YOU AND YOUR TEAM WROTE THOSE

03:28PM 18

DESCRIPTIONS, THE ACTUAL TEXT, CORRECT?

03:28PM 19

A. CORRECT.

03:28PM 20

Q. AND YOU ALSO TESTIFIED THAT THERE'S A LIMITED AMOUNT OF

03:28PM 21

SPACE THAT YOU HAVE IN WHICH TO WRITE THAT TEXT?

03:28PM 22

A. WE WANTED TO KEEP IT FAIRLY BRIEF, BUT WE NEEDED IT TO BE

03:28PM 23

DESCRIPTIVE ENOUGH SO THAT SOMEONE UNDERSTOOD WHAT THE OPTION

03:28PM 24

WAS IN THE COMMAND.

03:28PM 25

Q. BUT RATHER THAN HAVING A PARAGRAPH OF TEXT, IT WAS

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:28PM 1 IMPORTANT TO KEEP IT TO A LINE OR TWO AND THAT WAS ONLY ON THE  
03:28PM 2 RIGHT SIDE OF THE SCREEN; ISN'T THAT TRUE?

03:28PM 3 A. THAT IS CORRECT.

03:28PM 4 Q. SO THAT WAS A CONSTRAINT ON THE CHOICE US YOU COULD MAKE IN  
03:28PM 5 TERMS OF THE TEXT YOU CHOSE; ISN'T THAT TRUE?

03:28PM 6 A. YES.

03:28PM 7 Q. AND SINCE THIS PROJECT WAS IN THE EARLY NINETIES, THIS  
03:28PM 8 WOULD HAVE BEEN A LONG TIME AGO THAT THESE TEXT STRINGS WERE  
03:28PM 9 WRITTEN, CORRECT?

03:28PM 10 A. IT DEPENDS ON YOUR PERSPECTIVE AS TO WHETHER IT'S A LONG  
03:28PM 11 TIME OR NOT. AS I GROW OLDER, SOMETIMES IT DOESN'T SEEM LIKE  
03:29PM 12 IT'S THAT FAR BACK.

03:29PM 13 Q. FAIR ENOUGH.

03:29PM 14 AND ISN'T IT TRUE THAT SITTING HERE TODAY, YOU CAN'T  
03:29PM 15 REMEMBER WHETHER YOU PERSONALLY WROTE SOME OF THAT TEXT OR  
03:29PM 16 WHETHER IT WAS OTHER MEMBERS ON YOUR TEAM?

03:29PM 17 A. I CAN TELL WHICH ONES I WROTE BECAUSE AS IT TURNS OUT THEY  
03:29PM 18 ARE ABOUT A MONTH -- NO, ACTUALLY, ABOUT A WEEK AND A HALF AGO  
03:29PM 19 I FOUND MY 8.3 MANUALS. IN THOSE MANUALS, WE STARTED AT THE  
03:29PM 20 FRONT AND I CHECKED OFF, BECAUSE I STARTED WITH THAT MANUAL, I  
03:29PM 21 CHECKED OFF THE COMMANDS THAT I DID.

03:29PM 22 AND SO I ACTUALLY HAVE ONE PLACE WHERE I PUT IN WHAT, THERE  
03:29PM 23 WAS A COMMAND MISSING FROM THE SUMMARY SECTION OF THE DOCUMENT,  
03:29PM 24 AND I ACTUALLY WROTE IN, INCLUDING ITS HELP TEXT, WHAT THAT  
03:29PM 25 COMMAND WAS.

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:29PM 1 Q. AND YOU WERE -- YOU WERE SERVED WITH A SUBPOENA IN THIS  
03:29PM 2 CASE BEFORE YOUR DEPOSITION; ISN'T THAT TRUE?

03:29PM 3 A. YES.

03:29PM 4 Q. AND YOU WERE ASKED TO PRODUCE DOCUMENTS IN THIS CASE, ISN'T  
03:29PM 5 THAT TRUE?

03:29PM 6 A. YES.

03:29PM 7 Q. AND YOU DID NOT PRODUCE THAT MANUAL; ISN'T THAT TRUE?

03:29PM 8 A. THAT IS CORRECT.

03:29PM 9 MR. KWUN: YOUR HONOR, I WOULD MOVE TO STRIKE THE  
03:30PM 10 TESTIMONY REGARDING THE MANUAL BECAUSE THOSE DOCUMENTS WEREN'T  
03:30PM 11 DISCLOSED.

03:30PM 12 THE COURT: GRANTED. SUSTAINED. IT WILL BE  
03:30PM 13 STRICKEN.

03:30PM 14 LADIES AND GENTLEMEN, YOU ARE TO DISREGARD THE TESTIMONY  
03:30PM 15 JUST GIVEN BY THE WITNESS.

03:30PM 16 BY MR. KWUN:

03:30PM 17 Q. MR. SLATTERY, AT YOUR DEPOSITION IN JANUARY OF THIS YEAR,  
03:30PM 18 ISN'T IT TRUE THAT YOU TESTIFIED THAT FOR RESPONSES TO THE HELP  
03:30PM 19 COMMAND, NOT THE QUESTION MARK, BUT THE HELP COMMAND, YOU  
03:30PM 20 DIDN'T KNOW WHETHER IT WAS YOU OR YOUR TEAM MEMBERS WHO HAD  
03:30PM 21 WRITTEN THE HELP RESPONSES?

03:30PM 22 A. OKAY.

03:30PM 23 Q. AND YOU HAVE NO PERSONAL KNOWLEDGE OF WHAT YOUR TEAM  
03:30PM 24 MEMBERS WERE THINKING WHEN THEY WROTE ANY TEXT THAT THEY MAY  
03:30PM 25 HAVE WRITTEN; ISN'T THAT TRUE?

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:30PM 1 A. CORRECT.

03:30PM 2 Q. SO LET'S TAKE AN EXAMPLE. ARE YOU FAMILIAR WITH THE TEXT,

03:30PM 3 ENABLE IP ROUTING?

03:30PM 4 A. YES.

03:30PM 5 Q. AND THAT'S HELP DESCRIPTION TEXT THAT CAN APPEAR IN THE

03:30PM 6 CLI; ISN'T THAT TRUE?

03:30PM 7 A. YES.

03:30PM 8 Q. AND IF THAT WAS ONE OF YOUR TEAM MEMBERS WHO WROTE THAT,

03:31PM 9 YOU WOULD HAVE NO REASON, NO PERSONAL KNOWLEDGE, EXCUSE ME, OF

03:31PM 10 ANY REASONS THEY MIGHT HAVE HAD FOR CHOOSING THOSE WORDS?

03:31PM 11 A. CORRECT.

03:31PM 12 Q. BUT ENABLE IP ROUTING THAT WOULD BE SOME TEXT YOU WOULD SEE

03:31PM 13 FOR THE COMMAND IP ROUTING?

03:31PM 14 A. IT COULD BE.

03:31PM 15 Q. AND THAT'S A PRETTY STRAIGHTFORWARD DESCRIPTION OF WHAT THE

03:31PM 16 IP ROUTING COMMAND DOES, ISN'T IT?

03:31PM 17 A. YES.

03:31PM 18 Q. LET'S TRY ANOTHER EXAMPLE.

03:31PM 19 THE IP ADDRESS COMMAND, IS USED IN THE CISCO CLI TO SET THE

03:31PM 20 IP ADDRESS OF AN INTERFACE, CORRECT?

03:31PM 21 A. YES.

03:31PM 22 Q. AND THE HELP DESCRIPTION TEXT FOR THE IP ROUTING -- EXCUSE

03:31PM 23 ME, THE IP ADDRESS COMMAND, IS "SET THE IP ADDRESS OF AN

03:31PM 24 INTERFACE", CORRECT?

03:31PM 25 A. I WILL ASSUME SO. I DON'T HAVE A COPY OF THE INTERFACE IN



CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:31PM 1 FRONT OF ME TO VALIDATE THAT.

03:31PM 2 Q. BUT THAT TEXT, SET THE IP ADDRESS OF AN INTERFACE, THAT'S

03:32PM 3 ALSO SOME PRETTY STRAIGHTFORWARD TEXT EXPLAINING WHAT THE IP

03:32PM 4 ADDRESS COMMAND DOES?

03:32PM 5 A. YES.

03:32PM 6 Q. YOU ALSO MENTIONED IN YOUR TESTIMONY THAT AS A RESULT OF

03:32PM 7 THE SYSTEM THAT YOUR TEAM ADDED, THE MANUAL IS LESS LIKELY TO

03:32PM 8 BE NEEDED BY A NETWORK OPERATOR, CORRECT?

03:32PM 9 THEY DON'T NEED IT TO BE SITTING NEXT TO THEM AS THEY ARE

03:32PM 10 CONFIGURING A SWITCH, CORRECT?

03:32PM 11 A. CORRECT.

03:32PM 12 Q. SO WITH THIS SYSTEM, THE IMPORTANCE OF HAVING READY ACCESS

03:32PM 13 TO A MANUAL BECOMES LESS IMPORTANT FOR THE NETWORK USERS,

03:32PM 14 CORRECT?

03:32PM 15 A. ON DAILY OPERATIONS, YES.

03:32PM 16 Q. MR. SLATTERY, YOU WOULD AGREE, WOULDN'T YOU, THAT IT'S

03:32PM 17 USEFUL FOR CUSTOMERS TO HAVE A CHOICE ABOUT WHICH SWITCH TO

03:32PM 18 BUY?

03:32PM 19 A. YES.

03:32PM 20 Q. AND IN FACT, YOU'VE WORKED WITH COMPANIES THAT HAVE

03:32PM 21 EQUIPMENT FROM JUNIPER AND FROM CISCO ON THEIR NETWORK AND

03:32PM 22 THOSE COMPANIES WERE ABLE TO GET BETTER PRICES AS A RESULT FROM

03:32PM 23 JUNIPER AND FROM CISCO, ISN'T THAT TRUE?

03:33PM 24 A. I DON'T HAVE ANY INFORMATION REGARDING WHETHER THAT IS TRUE

03:33PM 25 OR NOT.

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:33PM 1 MR. KWUN: YOUR HONOR, I WOULD LIKE TO READ TO THE  
03:33PM 2 WITNESS FROM HIS JANUARY 6, 2016, DEPOSITION. FROM PAGES 41,  
03:33PM 3 LINE 22, TO PAGE 42, LINE 3.

03:33PM 4 THE COURT: OKAY.

03:33PM 5 MR. PAK: JUST TO MAKE SURE THE WITNESS HAS A COPY OF  
03:33PM 6 THE DEPOSITION.

03:33PM 7 THE COURT: DOES THE WITNESS HAVE IT?

03:33PM 8 THE WITNESS: YES.

03:33PM 9 MR. KWUN: STARTING ON PAGE 41, IF YOU WOULD LIKE TO  
03:33PM 10 FOLLOW ALONG. THERE'S LINE NUMBERS ON THE LEFT SIDE. I'M  
03:33PM 11 STARTING AT LINE NUMBER 22.

03:33PM 12 "QUESTION: DO YOU RECALL WHY THE COMPANY OR  
03:33PM 13 COMPANIES THAT YOU RECALL WITH CISCO AND JUNIPER EQUIPMENT, HAD  
03:33PM 14 SUCH A NETWORK WITH TWO DIFFERENT MANUFACTURES'S EQUIPMENT?

03:33PM 15 "ANSWER: IT GAVE THEM AN ADVANTAGE WORKING WITH BOTH  
03:33PM 16 COMPANIES, BOTH CISCO AND JUNIPER IN GETTING BETTER PRICING."

03:33PM 17 THAT WAS YOUR TESTIMONY?

03:33PM 18 A. THAT IS CORRECT.

03:33PM 19 Q. AND YOU WERE UNDER OATH AT THE TIME YOU GAVE THAT  
03:33PM 20 TESTIMONY, ISN'T THAT TRUE?

03:33PM 21 A. THAT IS CORRECT.

03:33PM 22 Q. AND DO YOU STAND BY THAT TESTIMONY?

03:33PM 23 A. YES, I DO.

03:34PM 24 Q. ISN'T IT TRUE THAT ALMOST ALL OF YOUR CURRENT CUSTOMERS  
03:34PM 25 HAVE MULTI VENDOR NETWORKS?

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:34PM 1

A. YES.

03:34PM 2

Q. IF YOU COULD TURN IN THE LARGER BINDER THAT YOU HAVE, TO

03:34PM 3

EXHIBIT 5067. THIS IS A -- THIS APPEARS TO BE AN ARTICLE THAT

03:34PM 4

YOU WROTE, ISN'T IT TRUE?

03:34PM 5

A. YES.

03:34PM 6

Q. AND IT'S CALLED THE HISTORY OF THE CISCO CLI?

03:34PM 7

A. YES.

03:34PM 8

Q. IT'S IN A WEBSITE CALLED CCIE FLYER?

03:34PM 9

A. YES.

03:34PM 10

Q. AND IT APPEARS THAT THIS IS AN ARTICLE THAT YOU WROTE,

03:34PM 11

WHILE THE HISTORY IS AN ARTICLE YOU WROTE IN 2007 WITH AN

03:34PM 12

INTRODUCTION YOU ADDED IN 2009; IS THAT CORRECT?

03:34PM 13

A. I KNOW THIS IS FROM 2009. NOW ARE YOU REFERRING TO THE

03:34PM 14

2007 DATE DUE TO THE BLOG THAT WAS DONE IN 2007.

03:35PM 15

Q. I AM.

03:35PM 16

A. OKAY. THEN YES.

03:35PM 17

MR. KWUN: YOUR HONOR, I WOULD OFFER EXHIBIT 5067

03:35PM 18

INTO THE RECORD.

03:35PM 19

MR. PAK: NO OBJECTION, YOUR HONOR.

03:35PM 20

THE COURT: IT WILL BE ADMITTED.

03:35PM 21

(WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5067, HAVING BEEN

03:35PM 22

PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

03:35PM 23

EVIDENCE.)

03:35PM 24

BY MR. KWUN:

03:35PM 25

Q. ALL RIGHT. IF YOU CAN SEE ON THAT FIRST PAGE, ON THAT

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:35PM 1 FIRST PAGE YOU SAY THAT, THIS IS BELOW THE HEADING, THE HISTORY  
03:35PM 2 OF THE CISCO CLI.

03:35PM 3 YOU SAY, I DON'T THINK MANY PEOPLE KNOW THE HISTORY OF THE  
03:35PM 4 CISCO CLI AND THE IMPACT IT HAS HAD ON THE INDUSTRY.

03:35PM 5 DO YOU SEE THAT?

03:35PM 6 A. YES.

03:35PM 7 Q. AND HERE'S WHERE YOU SAY, OTHER COMPANIES ARE EMULATING IT  
03:35PM 8 AS EVIDENCED BY RECENT ARTICLES ON THE TOPIC, CORRECT?

03:35PM 9 A. YES.

03:35PM 10 Q. SO YOU WERE AWARE THAT OTHER COMPANIES WERE EMULATING THE  
03:35PM 11 CISCO CLI, CORRECT?

03:35PM 12 A. YES.

03:35PM 13 Q. AND YOU ALSO SAY IN THIS ARTICLE THAT NETWORK ENGINEERS  
03:36PM 14 TYPICALLY BECOME EXPERTS IN CISCO CLI FIRST THEN MOVE ON --  
03:36PM 15 EXCUSE ME. THEN MOVE TO OTHER VENDOR GEAR, SO IT MAKES SENSE  
03:36PM 16 TO EMULATE IT; ISN'T IT TRUE?

03:36PM 17 A. YES.

03:36PM 18 Q. WHEN YOU SAY IT MAKES SENSE TO EMULATE IT, YOU MEAN IT  
03:36PM 19 MAKES SENSE FOR OTHER NETWORKING COMPANIES TO EMULATE THE CISCO  
03:36PM 20 CLI, CORRECT?

03:36PM 21 A. YES.

03:36PM 22 Q. AND ISN'T IT TRUE THAT THE MAIN REASON MOST NETWORK  
03:36PM 23 ENGINEERS LEARN CISCO CLI FIRST IS DUE TO CISCO'S DOMINANCE IN  
03:36PM 24 THE MARKET?

03:36PM 25 A. THEY ARE THE LARGEST MARKET SHARE, SO I THINK A LOT OF

CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:36PM 1 PEOPLE GET EXPOSURE TO THAT, YES.

03:36PM 2 Q. MR. SLATTERY, ISN'T IT TRUE THAT YOU HAVE NO EXPERIENCE  
03:36PM 3 WHATSOEVER ON ARISTA EQUIPMENT?

03:36PM 4 A. THAT'S CORRECT.

03:36PM 5 Q. AND YOU'VE NEVER PERSONALLY CONFIGURED OR MANAGED A JUNIPER  
03:36PM 6 SWITCH EITHER ISN'T IT TRUE?

03:37PM 7 A. I HAVE LOOKED AT THE CONFIGURATIONS BUT I HAVE NOT  
03:37PM 8 PERSONALLY CONFIGURED ONE.

03:37PM 9 Q. AND YOU'VE NEVER PERSONALLY CONFIGURED OR MANAGED A BROCADE  
03:37PM 10 ROUTER EITHER, HAVE YOU?

03:37PM 11 A. NO, I HAVE NOT.

03:37PM 12 Q. AND YOU'VE NEVER PERSONALLY CONFIGURED OR MANAGED AN HP  
03:37PM 13 ROUTER, ISN'T IT TRUE?

03:37PM 14 A. THAT IS CORRECT.

03:37PM 15 Q. MR. SLATTERY, WOULDN'T YOU AGREE THAT THE ENTIRE NETWORK  
03:37PM 16 INDUSTRY IS GOING THROUGH MASSIVE CHANGES TODAY WITH SOFTWARE  
03:37PM 17 DEFINED NETWORKING?

03:37PM 18 A. I DO.

03:37PM 19 Q. AND YOU WOULD AGREE, WOULDN'T YOU, THAT SOFTWARE DEFINED  
03:37PM 20 NETWORKING IS CHANGING THE NETWORKING INDUSTRY AND CHANGING HOW  
03:37PM 21 YOU CONTROL AND MANAGE A NETWORK; ISN'T THAT TRUE?

03:37PM 22 A. YES.

03:37PM 23 Q. AND IN FACT, YOU WOULDN'T START A COMPANY TODAY THAT DID A  
03:37PM 24 USER INTERFACE LIKE CISCO'S; ISN'T THAT RIGHT?

03:37PM 25 A. I THINK THAT'S WHAT I SAID BEFORE, YES.

REDIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:37PM 1 Q. AND WHEN YOU SAID IT, THAT YOU BELIEVED IT?

03:37PM 2 A. YES.

03:37PM 3 Q. AND YOU BELIEVE IT TODAY?

03:37PM 4 A. UH-HUH.

03:38PM 5 MR. KWUN: NO FURTHER QUESTIONS, YOUR HONOR.

03:38PM 6 THE COURT: REDIRECT FOR THIS WITNESS, MR. PAK?

03:38PM 7 MR. PAK: JUST QUICK FOLLOW UP.

03:38PM 8 THE COURT: OKAY.

03:38PM 9

03:38PM 10 **REDIRECT EXAMINATION BY MR. PAK**

03:38PM 11

03:38PM 12 BY MR. PAK:

03:38PM 13 Q. SO LET ME MAKE IT CLEAR, YOU WOULDN'T START A COMPANY THAT  
03:38PM 14 WOULD USE CISCO'S USER INTERFACE WITHOUT GETTING A LICENSE FROM  
03:38PM 15 CISCO, RIGHT?

03:38PM 16 A. THAT IS CORRECT.

03:38PM 17 Q. OKAY. AND WHEN YOU TALK ABOUT EMULATION, MR. KWUN SHOWED  
03:38PM 18 YOU SOME OF THOSE SAME DOCUMENTS WE TALKED ABOUT, WERE YOU  
03:38PM 19 SAYING, SIR, THAT EMULATING MEANS COPYING THE COMMAND ELEMENTS  
03:38PM 20 FROM CISCO'S USER INTERFACE?

03:38PM 21 A. NO.

03:38PM 22 Q. AND YOU TALKED ABOUT MULTI VENDOR NETWORKS IN YOUR  
03:38PM 23 TESTIMONY; DO YOU RECALL THAT?

03:38PM 24 A. YES.

03:38PM 25 Q. SO IF YOU WERE TO BE WORKING WITH MULTIPLE EQUIPMENT THAT

REDIRECT EXAMINATION OF MR. SLATTERY BY MR. PAK

03:38PM 1 HAD DIFFERENT USER INTERFACES, HOW WOULD YOU LEARN HOW TO WORK  
03:38PM 2 WITH DIFFERENT USER INTERFACES THAT DID NOT LOOK ALIKE, FOR  
03:38PM 3 NETWORKING EQUIPMENT, WHAT WOULD YOU HAVE TO DO?

03:38PM 4 A. WELL, I WOULD FIRST START BY READING THE MANUAL. MAYBE I'M  
03:38PM 5 OLD SCHOOL, BUT I START WITH READING THE MANUAL. I ALSO HAVE  
03:39PM 6 RELIED HEAVILY ON MY BACKGROUND OF LEARNING HOW THE NETWORK  
03:39PM 7 PROTOCOLS WORK.

03:39PM 8 AND HAVING THAT UNDERSTANDING, I CAN TAKE THAT  
03:39PM 9 UNDERSTANDING OF HOW THE NETWORK PROTOCOLS WORK AND I CAN THEN  
03:39PM 10 MAP THAT INTO WHAT THE COMMANDS ARE THAT THE EQUIPMENT USES.

03:39PM 11 AND I LEARN THOSE COMMANDS FROM THAT WAY FIRST BY READING  
03:39PM 12 THROUGH THEIR MANUAL, THE DOCUMENTATION. AND THAT GIVES ME A  
03:39PM 13 SENSE OVERALL FOR HOW THE SYSTEM IS CONFIGURED. THEN I CAN  
03:39PM 14 START PICKING UP SPECIFIC CONFIGURATION COMMANDS TO PERFORM THE  
03:39PM 15 FUNCTIONS THAT I NEED TO PERFORM ON THE NETWORK.

03:39PM 16 Q. BASED ON YOUR EXPERIENCE AS A NETWORK CONSULTANT AND ALL  
03:39PM 17 THE WORK THAT YOU HAVE DONE FOR VARIOUS COMPANIES, IS IT A  
03:39PM 18 REQUIREMENT FOR A MULTI VENDOR NETWORK TO HAVE EACH VENDOR'S  
03:39PM 19 EQUIPMENT HAVE VIRTUALLY THE SAME USER INTERFACE?

03:39PM 20 A. NO, IT IS NOT.

03:39PM 21 MR. KWUN: OBJECTION, YOUR HONOR. EXPERT TESTIMONY.

03:39PM 22 MR. PAK: BASED ON HIS EXPERIENCE, YOUR HONOR.

03:39PM 23 THE COURT: OVERRULED.

03:39PM 24 MR. PAK: THAT'S ALL I HAVE, YOUR HONOR.

03:39PM 25 THE COURT: THANK YOU.

RE CROSS-EXAMINATION OF MR. SLATTERY BY MR. KWUN

03:40PM 1 MR. KWUN, ANYTHING ELSE FOR THIS WITNESS?

03:40PM 2 MR. KWUN: JUST ONE SHORT RECROSS, YOUR HONOR.

03:40PM 3

03:40PM 4 **RE CROSS-EXAMINATION BY MR. KWUN**

03:40PM 5

03:40PM 6 Q. MR. SLATTERY, ISN'T IT TRUE THAT THE REASON WHY YOU

03:40PM 7 WOULDN'T USE A USER INTERFACE LIKE CISCO IS IF YOU WERE

03:40PM 8 STARTING A COMPANY TODAY IS DUE TO THE MASSIVE CHANGES IN THE

03:40PM 9 INDUSTRY DUE TO SOFTWARE DEFINED NETWORKING?

03:40PM 10 A. IF I WERE REALLY STARTING A COMPANY, I MEAN, MAY I DO A

03:40PM 11 LITTLE DISCOURSE ON THIS?

03:40PM 12 Q. I WOULD PREFER AN ANSWER TO THE QUESTION THAT I ASKED?

03:40PM 13 A. OKAY. I WOULD HAVE TO TAKE A SERIOUS LOOK AT IT.

03:40PM 14 Q. ISN'T IT TRUE THAT AT YOUR DEPOSITION THAT WAS YOUR

03:40PM 15 TESTIMONY?

03:40PM 16 A. THAT IS CORRECT.

03:40PM 17 MR. KWUN: NO FURTHER QUESTIONS, YOUR HONOR.

03:40PM 18 THE COURT: THANK YOU.

03:40PM 19 MR. PAK: THAT'S IT, YOUR HONOR.

03:40PM 20 THE COURT: ALL RIGHT. MAY MR. SLATTERY BE EXCUSED?

03:40PM 21 MR. PAK: YES.

03:40PM 22 THE COURT: MR. SLATTERY, THANK YOU FOR YOUR

03:40PM 23 TESTIMONY. YOU ARE FREE TO GO.

03:41PM 24 MR. PAK, YOUR NEXT WITNESS?

03:41PM 25 MR. PAK: YES, WE ARE ACTUALLY CALLING AT AN ADVERSE



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

WITNESS, MR. KENNETH DUDA.

THE COURT: ALL RIGHT.

MR. DUDA, IF YOU WOULD COME FORWARD TO THE WITNESS STAND,  
PLEASE AND STAND TO BE SWORN.

**KENNETH DUDA,**

BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,  
HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS  
FOLLOWS:

THE WITNESS: YES.

THE CLERK: THANK YOU. PLEASE BE SEATED.

MR. PAK: YOUR HONOR, MAY I APPROACH THE WITNESS AND  
HAND --

THE COURT: YES.

THE CLERK: PLEASE STATE YOUR NAME AND SPELL YOUR  
LAST NAME FOR THE RECORD.

THE WITNESS: MY NAME IS KENNETH DUDA. D-U-D-A.

**DIRECT EXAMINATION BY MR. PAK**

BY MR. PAK:

Q. I PROMISED THE COURT REPORTER TO SLOW DOWN, SO I WILL TRY  
TO DO MY BEST.

GOOD AFTERNOON, MR. DUDA. NICE TO SEE YOU AGAIN.

A. GOOD AFTERNOON.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:42PM 1 Q. YOU AND I HAVE MET BEFORE, I TOOK YOUR DEPOSITION.

03:42PM 2 A. YES.

03:42PM 3 Q. MR. DUDA, YOU ARE CURRENTLY THE CHIEF TECHNOLOGY OFFICER  
03:42PM 4 FOR ARISTA NETWORKS; IS THAT CORRECT?

03:42PM 5 A. YES, THAT'S RIGHT.

03:42PM 6 Q. AND IN ADDITION TO BEING THE CTO OF ARISTA, YOU ARE ALSO  
03:42PM 7 ARISTA'S SENIOR VICE PRESIDENT OF SOFTWARE ENGINEERING; IS THAT  
03:42PM 8 RIGHT?

03:42PM 9 A. YES, IT IS.

03:42PM 10 Q. OKAY. AND AT A HIGH LEVEL, CAN YOU EXPLAIN TO THE JURY  
03:42PM 11 WHAT YOU DO FOR ARISTA?

03:42PM 12 A. YES. CERTAINLY.

03:42PM 13 I'M IN CHARGE OF THE SOFTWARE TEAM AT ARISTA. IS I'M  
03:42PM 14 RESPONSIBLE FOR SOFTWARE DEVELOPMENT. I'M ALSO RESPONSIBLE FOR  
03:42PM 15 SPEAKING FOR THE COMPANY ON TECHNICAL ISSUES.

03:42PM 16 Q. IN TERMS OF TECHNOLOGY POSITION, YOU ARE THE HIGHEST  
03:43PM 17 RANKING OFFICER IN THE COMPANY; IS THAT TRUE?

03:43PM 18 A. THAT'S RIGHT.

03:43PM 19 Q. OKAY. AND HOW MANY PEOPLE REPORT TO YOU DIRECTLY?

03:43PM 20 A. APPROXIMATELY 730.

03:43PM 21 Q. THAT'S A BIG --

03:43PM 22 A. DIRECTLY OR INDIRECTLY.

03:43PM 23 Q. AND THAT'S A BIG PERCENTAGE OF ARISTA'S TOTAL EMPLOYEE  
03:43PM 24 BASE; IS THAT CORRECT?

03:43PM 25 A. I'M NOT SURE OF THE EXACT PERCENTAGE.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:43PM 1 Q. AND WHO IS YOUR BOSS, WHO DO YOU REPORT TO?

03:43PM 2 A. JAYSHREE ULLAL, THE COMPANY'S CEO.

03:43PM 3 Q. SO YOU HAVE BEEN EMPLOYED BY ARISTA SINCE 2004, AND THAT'S  
03:43PM 4 ROUGHLY 12 YEARS?

03:43PM 5 A. THAT'S RIGHT.

03:43PM 6 Q. AND -- BUT EARLIER IN YOUR CAREER, YOU WORKED AT CISCO  
03:43PM 7 SYSTEMS; IS THAT CORRECT?

03:43PM 8 A. YES.

03:43PM 9 Q. IN FACT, YOU WORKED AT CISCO FROM 1996 TO 1999; IS THAT  
03:43PM 10 RIGHT?

03:43PM 11 A. YES.

03:43PM 12 Q. AND WHEN YOU WORKED AT CISCO, SIR, YOU UNDERSTOOD THAT YOU  
03:43PM 13 COULD NOT USE THE INTELLECTUAL PROPERTY RIGHTS BELONGING TO  
03:43PM 14 ANOTHER COMPANY WITHOUT HAVING PERMISSION OR WITHOUT HAVING A  
03:44PM 15 LICENSE; ISN'T THAT TRUE?

03:44PM 16 A. WELL, I'M NOT SURE I HAVE THE LEGAL BACKGROUND TO FULLY  
03:44PM 17 EVALUATE THAT STATEMENT, BUT GENERALLY SPEAKING, I UNDERSTOOD  
03:44PM 18 THAT YOU HAVE TO OWN INTELLECTUAL PROPERTY TO MAKE USE OF IT.

03:44PM 19 Q. SIR, IT WAS YOUR UNDERSTANDING THAT IF YOU OWN INTELLECTUAL  
03:44PM 20 PROPERTY RIGHTS, SOMEBODY ELSE NEEDS A LICENSE IN ORDER TO MAKE  
03:44PM 21 OR USE THAT INTELLECTUAL PROPERTY; ISN'T THAT TRUE, SIR?

03:44PM 22 A. THAT SOUNDS ABOUT RIGHT.

03:44PM 23 Q. OKAY. AND YOU HAD THAT UNDERSTANDING WHILE YOU WERE AT  
03:44PM 24 CISCO, CORRECT?

03:44PM 25 A. I THINK SO.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:44PM 1 Q. AND EVEN TODAY AT ARISTA, YOU UNDERSTAND THAT IF ANOTHER  
03:44PM 2 COMPANY HAS INTELLECTUAL PROPERTY RIGHTS, YOU, ON BEHALF OF  
03:44PM 3 ARISTA, CANNOT USE THAT INTELLECTUAL PROPERTY WITHOUT  
03:44PM 4 PERMISSION OR LICENSE; ISN'T THAT TRUE, SIR?

03:44PM 5 A. THAT SOUNDS RIGHT.

03:44PM 6 Q. OKAY. NOW, I WANT TO GO BACK TO THE TIME BEFORE THIS  
03:44PM 7 LAWSUIT WAS FILED WITHIN ARISTA, ARE YOU WITH ME?

03:45PM 8 A. YES.

03:45PM 9 Q. OKAY. BEFORE CISCO FILED THIS LAWSUIT, ISN'T IT TRUE, SIR,  
03:45PM 10 THAT ARISTA NEVER PROVIDED YOU WITH ANY TRAINING ON COPYRIGHT  
03:45PM 11 ISSUES?

03:45PM 12 A. I DON'T RECALL ANY TRAINING.

03:45PM 13 Q. THERE WAS NONE, CORRECT?

03:45PM 14 A. THAT SOUNDS RIGHT.

03:45PM 15 Q. OKAY. AND BEFORE CISCO FILED THIS LAWSUIT, ISN'T IT ALSO  
03:45PM 16 TRUE THAT ARISTA NEVER PROVIDED YOU WITH TRAINING ON PATENT  
03:45PM 17 ISSUES?

03:45PM 18 A. THAT'S RIGHT.

03:45PM 19 Q. OKAY. AND ALSO, ISN'T IT TRUE THAT AS A CTO OF ARISTA, YOU  
03:45PM 20 NEVER CONDUCTED A SEMINAR OR TRAINING PROGRAM WITHIN ARISTA IN  
03:45PM 21 TERMS OF HOW ARISTA EMPLOYEES SHOULD TREAT THE INTELLECTUAL  
03:45PM 22 PROPERTY RIGHTS OF OTHER COMPANIES; ISN'T THAT TRUE?

03:45PM 23 A. NO, THAT'S NOT THE CASE. ABOUT EVERY SIX WEEKS I TRAIN NEW  
03:45PM 24 EMPLOYEES ON ARISTA COMPANY CULTURE, INCLUDING THE COMPANY  
03:45PM 25 VALUES, WHICH INCLUDES I HAVE THE MISSION TO DO THE RIGHT THING

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

WITH INTELLECTUAL PROPERTY.

Q. YOU WERE DEPOSED IN THIS CASE, CORRECT?

A. YES.

Q. OKAY. AND YOU TOOK AN OATH JUST LIKE THE OATH YOU TOOK  
HERE TODAY TO TELL THE TRUTH WHEN YOU WERE DEPOSED?

A. YES.

Q. OKAY. IF YOU CAN PULL OUT YOUR DEPOSITION TESTIMONY AND  
TAKE A LOOK AT THE TAB AT THE END WHICH IS THE FEBRUARY 12,  
2016, AND TURN TO PAGE 104, PLEASE.

A. OKAY.

Q. I'M GOING TO PLAY, WITH YOUR HONOR'S PERMISSION, I WOULD  
LIKE TO PLAY THE TESTIMONY OF MR. DUDA FROM HIS VIDEO  
DEPOSITION.

THE COURT: OKAY. IF WE COULD JUST HAVE THE PAGE AND  
LINE NUMBER FOR THE RECORD.

MR. PAK: SURE. IT'S PAGE 4 -- PAGE 104, LINES 7  
THROUGH 14.

THE COURT: AND YOU WILL SUBMIT A COPY OF THIS FOR  
THE RECORD AFTER.

MR. PAK: YES, YOUR HONOR.

THE COURT: THANK YOU. I APPRECIATE THAT.

(WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

MR. PAK: THAT WAS YOUR SWORN TESTIMONY, RIGHT, SIR?

THE WITNESS: YES.

Q. AND IN FACT, TO YOUR KNOWLEDGE, NO ONE ELSE WITHIN ARISTA

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:47PM 1 HAS CONDUCTED A SEMINAR OR TRAINING PROGRAM ON HOW TO DEAL WITH  
03:47PM 2 INTELLECTUAL PROPERTY OF OTHER COMPANIES; ISN'T THAT RIGHT?

03:47PM 3 A. NOT AS FAR AS I KNOW.

03:47PM 4 Q. LET'S TURN TO EXHIBIT 242 IN YOUR BINDER. THIS WAS AN  
03:48PM 5 E-MAIL THAT WAS SENT BY A GENTLEMAN NAMED MARK FOSS AT ARISTA  
03:48PM 6 TO A MAILING LIST CALLED LEADERSHIP; ISN'T THAT TRUE?

03:48PM 7 A. YES.

03:48PM 8 Q. YOU WERE ON THAT MAILING LIST WITHIN ARISTA?

03:48PM 9 A. THAT'S RIGHT.

03:48PM 10 Q. OKAY. AND LEADERSHIP IS A MAILING LIST THAT'S USED BY THE  
03:48PM 11 LEADERS WITHIN ARISTA TO SHARE INFORMATION REPORTING TO  
03:48PM 12 ARISTA'S BUSINESS; ISN'T THAT TRUE?

03:48PM 13 A. YES.

03:48PM 14 Q. OKAY.

03:48PM 15 MR. PAK: YOUR HONOR, I WOULD LIKE TO ADMIT INTO  
03:48PM 16 EVIDENCE NOW EXHIBIT 242.

03:48PM 17 MR. SILBERT: NO OBJECTION.

03:48PM 18 THE COURT: IT WILL BE ADMITTED.

03:48PM 19 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 242, HAVING BEEN  
03:48PM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
03:48PM 21 EVIDENCE.)

03:48PM 22 BY MR. PAK:

03:48PM 23 Q. IF YOU COULD BLOW THIS UP. SO WHO IS MARK FOSS IN THIS  
03:48PM 24 E-MAIL?

03:48PM 25 A. MARK FOSS IS AN EXECUTIVE AT OUR COMPANY.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:48PM 1 Q. WHAT DOES HE DO, SPECIFICALLY?

03:49PM 2 A. HE'S HAD VARIOUS ROLES. I BELIEVE AT THIS TIME HE WAS IN

03:49PM 3 CHARGE OF INTERNATIONAL SALES, BUT I'M NOT SURE.

03:49PM 4 Q. AND THE DATE OF THIS E-MAIL IS MARCH 15, 2011; ISN'T THAT

03:49PM 5 TRUE?

03:49PM 6 A. THAT'S RIGHT.

03:49PM 7 Q. AND THE TITLE OF THIS E-MAIL IS CISCO NEXUS AND UCS

03:49PM 8 UPDATES; ISN'T THAT TRUE?

03:49PM 9 A. THAT'S RIGHT.

03:49PM 10 Q. AND IF YOU LOOK AT THE BOTTOM IT'S AN E-MAIL FROM A

03:49PM 11 GENTLEMAN NAMED FRANKIE LIM, AND HE'S SENDING YOU AN E-MAIL OR

03:49PM 12 SENDING OTHERS AT ARISTA AN E-MAIL WITH THE DATE MARCH 15,

03:49PM 13 2011, CORRECT?

03:49PM 14 A. YES.

03:49PM 15 Q. AND WAS FRANKIE LIM AN ARISTA EMPLOYEE AT THE TIME?

03:49PM 16 A. I DON'T KNOW.

03:49PM 17 Q. SO A PERSON YOU DON'T KNOW SENDS AN E-MAIL TO A NUMBER OF

03:49PM 18 FOLKS, INCLUDING MARK FOSS, AND HE FORWARDS THIS E-MAIL TO THE

03:49PM 19 LEADERSHIP MAILING LIST AT ARISTA; IS THAT TRUE?

03:50PM 20 A. YES.

03:50PM 21 Q. OKAY. NOW LET'S TAKE A LOOK AT THE NEXT PAGE, WHICH IS THE

03:50PM 22 ATTACHMENT. AND THIS IS A DOCUMENT THAT'S TITLED *CISCO OPEN*

03:50PM 23 *CLOUD ARCHITECTURE*; ISN'T THAT CORRECT?

03:50PM 24 A. YES.

03:50PM 25 Q. AND THAT'S DATED FEBRUARY 15TH, 2011?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:50PM 1 A. YES.

03:50PM 2 Q. AND THIS IS A CISCO DOCUMENT, IS IT NOT?

03:50PM 3 A. YES.

03:50PM 4 Q. AND IT'S A CISCO DOCUMENT THAT IS DESCRIBING CISCO'S CLOUD

03:50PM 5 COMPUTING PRODUCT STRATEGY; ISN'T THAT TRUE?

03:50PM 6 A. IT'S POSSIBLE, BUT I ACTUALLY DON'T KNOW WHAT'S IN THIS

03:50PM 7 DOCUMENT.

03:50PM 8 Q. YOU RECEIVED IT BUT YOU ARE CLAIMING THAT YOU DIDN'T OPEN

03:50PM 9 IT?

03:50PM 10 A. I DON'T REMEMBER OPENING IT, I DOUBT THAT I DID.

03:50PM 11 Q. YOU ARE NOT DENYING THAT YOU COULD HAVE OPENED IF?

03:50PM 12 A. IT'S A POSSIBILITY, YES.

03:50PM 13 Q. IT'S A POSSIBILITY. SO IF YOU LOOK VERY CLOSELY, AND LET'S

03:51PM 14 BRING THIS UP RIGHT HERE IN THE MIDDLE, MR. FISHER, TOWARD THE

03:51PM 15 BOTTOM IN THE FOOTER. DO YOU SEE THAT IT SAYS CISCO

03:51PM 16 CONFIDENTIAL IN THE FOOTER OF THE DOCUMENT? THAT DOCUMENT IS

03:51PM 17 MARKED CISCO CONFIDENTIAL, CORRECT?

03:51PM 18 A. WELL, IT LOOKS LIKE IT. IT'S A LITTLE HARD TO MAKE OUT.

03:51PM 19 Q. AND, IT'S NOT THE FIRST TIME THAT YOU'VE SEEN DOCUMENTS

03:51PM 20 CIRCULATED WITHIN ARISTA THAT HAD THE CISCO CONFIDENTIAL LEGEND

03:51PM 21 ON IT, CORRECT?

03:51PM 22 A. I'M NOT SURE.

03:52PM 23 Q. YOU HAVEN'T SEEN OTHER DOCUMENTS?

03:52PM 24 A. I DON'T RECALL SEEING THEM.

03:52PM 25 Q. WELL, LET'S TAKE A LOOK AT ANOTHER PRESENTATION. AND THIS



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:52PM 1 ONE IS EXHIBIT 180.

03:52PM 2 AND DO YOU SEE, SIR, IN THIS BINDER EXHIBIT 180, THAT THIS  
03:52PM 3 IS A CISCO DOCUMENT, BUT IT WAS PRODUCED BY ARISTA; DO YOU  
03:52PM 4 UNDERSTAND THAT?

03:52PM 5 A. IT LOOKS THAT WAY, YES.

03:52PM 6 Q. AND WE TALKED ABOUT THIS DOCUMENT DURING YOUR DEPOSITION,  
03:52PM 7 DO YOU REMEMBER THAT?

03:52PM 8 A. I DO NOT REMEMBER THAT.

03:52PM 9 Q. AND LET'S --

03:52PM 10 MR. PAK: YOUR HONOR, AT THIS POINT I WOULD LIKE TO  
03:53PM 11 MOVE INTO EVIDENCE EXHIBIT 180.

03:53PM 12 MR. SILBERT: NO OBJECTION.

03:53PM 13 THE COURT: IT WILL BE ADMITTED.

03:53PM 14 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 180, HAVING BEEN  
03:53PM 15 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
03:53PM 16 EVIDENCE.)

03:53PM 17 BY MR. PAK:

03:53PM 18 Q. THIS IS A CISCO DOCUMENT, IS IT NOT, SIR?

03:53PM 19 A. YES.

03:53PM 20 Q. AND NEXUS 7000 IS ONE OF THE CISCO ETHERNET SWITCHES THAT  
03:53PM 21 YOU COMPETE WITH DIRECTLY, CORRECT?

03:53PM 22 A. THAT'S RIGHT.

03:53PM 23 Q. OKAY. AND IF I CAN, AGAIN, BLOW UP THE BOTTOM OF THAT  
03:53PM 24 POWER POINT.

03:53PM 25 DO YOU SEE THAT THIS DOCUMENT ALSO SAYS CISCO CONFIDENTIAL?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:53PM 1 A. YES, I DO.

03:53PM 2 Q. WHEN YOU WERE DEPOSED YOU STATED YOUR BELIEF THAT ARISTA  
03:53PM 3 OWNS COPYRIGHT PROTECTION IN THE SOURCE CODE THAT WAS CREATED  
03:53PM 4 AT ARISTA; ISN'T THAT TRUE?

03:54PM 5 A. THAT'S MY UNDERSTANDING.

03:54PM 6 Q. OKAY.

03:54PM 7 YOU ALSO STATED THAT ARISTA OWNS COPYRIGHT PROTECTION IN  
03:54PM 8 THE USER MANUALS AND MARKETING MATERIALS THAT HAD BEEN CREATED  
03:54PM 9 BY THE COMPANY; ISN'T THAT TRUE?

03:54PM 10 A. YES.

03:54PM 11 Q. YOU ALSO STATED UNDER OATH THAT YOU BELIEVE IT'S POSSIBLE  
03:54PM 12 THAT ARISTA OWNS COPYRIGHT PROTECTION IN CLI COMMANDS THAT IT  
03:54PM 13 AUTHORED; ISN'T THAT TRUE?

03:54PM 14 A. I DON'T KNOW.

03:54PM 15 Q. YOU DON'T KNOW? LET'S TAKE A LOOK AT YOUR DEPOSITION  
03:54PM 16 AGAIN. AND THIS TIME WE ARE GOING TO LOOK AT PAGE 33, LINES  
03:54PM 17 SIX --

03:54PM 18 MR. PAK: AND YOUR HONOR, WITH YOUR PERMISSION I  
03:54PM 19 WOULD LIKE TO PLAY THE VIDEO. THIS IS PAGE 33, LINES 6  
03:54PM 20 THROUGH 8. AND THEN LINES 11 THROUGH 16 OF THE SAME  
03:55PM 21 DEPOSITION.

03:55PM 22 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

03:55PM 23 Q. THAT WAS YOUR SWORN TESTIMONY, IS THAT RIGHT, SIR?

03:55PM 24 A. YES.

03:55PM 25 Q. OKAY. AND IN FACT, YOU CAN THINK OF VARIOUS COMMANDS THAT

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:55PM 1 YOU BELIEVE ORIGINATED AT ARISTA; ISN'T THAT TRUE?

03:55PM 2 A. YES, I CAN THINK OF SOME.

03:55PM 3 Q. NOW ISN'T IT A FACT, SIR, THAT ARISTA'S SOURCE CODE

03:55PM 4 ACTUALLY CONTAINS CODE FROM OTHER COMPANIES?

03:55PM 5 A. WHAT DO YOU MEAN BY ARISTA'S SOURCE CODE?

03:56PM 6 Q. I'M TALKING ABOUT THE EOS SOURCE CODE, THAT'S THE EOS IS

03:56PM 7 THE OPERATING SYSTEM FOR ARISTA; ISN'T THAT TRUE?

03:56PM 8 A. THAT'S RIGHT.

03:56PM 9 Q. AND YOU ARE IN CHARGE OF DEVELOPING THAT SOFTWARE AS PART

03:56PM 10 OF YOUR CTO TITLE; IS THAT CORRECT?

03:56PM 11 A. YES.

03:56PM 12 Q. OKAY. SO YOU KNOW WHAT'S IN THAT CODE, YES?

03:56PM 13 A. BROADLY, YES.

03:56PM 14 Q. SO ISN'T IT TRUE, SIR, THAT ARISTA'S EOS SOURCE CODE

03:56PM 15 ACTUALLY CONTAINS CODE FROM OTHER COMPANIES?

03:56PM 16 A. YES, THAT'S CORRECT.

03:56PM 17 Q. OKAY. IN FACT, THERE ARE A NUMBER OF THIRD-PARTY OR OTHER

03:56PM 18 COMPANY'S CODE THAT HAS BEEN INCORPORATED INTO ARISTA'S EOS

03:56PM 19 SOURCE CODE; ISN'T THAT TRUE?

03:56PM 20 A. THAT'S RIGHT.

03:56PM 21 Q. OKAY. FOR EXAMPLE, IT CONTAINS CODE FROM BROADCOM, THAT'S

03:56PM 22 ANOTHER COMPANY, CORRECT?

03:56PM 23 A. THAT'S RIGHT.

03:56PM 24 Q. AND IT CONTAINS CODE FROM A COMPANY CALLED OPTUMSOFT; ISN'T

03:56PM 25 THAT TRUE?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:56PM 1 A. YES, IT IS.

03:56PM 2 Q. THAT EOS SOURCE CODE ALSO CONTAINS CODE FROM A COMPANY

03:56PM 3 CALLED FULCRUM MICROSYSTEMS, CORRECT?

03:57PM 4 A. NOW INTEL, THAT'S CORRECT.

03:57PM 5 Q. THAT'S RIGHT. AND FOR EACH OF THESE INSTANCES WHERE YOU

03:57PM 6 ACTUALLY USE SOMEBODY ELSE'S CODE, ARISTA TOOK A LICENSE, DID

03:57PM 7 IT NOT?

03:57PM 8 A. YES, WE DID.

03:57PM 9 Q. SO YOU APPROACHED BROADCOM FOR A LICENSE AND YOU GOT A

03:57PM 10 LICENSE, DIDN'T YOU?

03:57PM 11 A. I DON'T RECALL IF WE SPECIFICALLY APPROACHED THEM FOR A

03:57PM 12 LICENSE, BUT WE DID END UP SIGNING A LICENSE AGREEMENT.

03:57PM 13 Q. OPTUMSOFT, YOU HAVE A LICENSE AGREEMENT WITH THEM AS WELL?

03:57PM 14 A. YES, WE DO.

03:57PM 15 Q. AND YOU HAVE A LICENSE AGREEMENT WITH FULCRUM MICROSYSTEMS;

03:57PM 16 IS THAT RIGHT?

03:57PM 17 A. THAT'S RIGHT.

03:57PM 18 Q. BUT YOU DON'T HAVE A LICENSE FROM CISCO FOR CISCO'S USER

03:57PM 19 INTERFACE; ISN'T THAT TRUE?

03:57PM 20 A. AS FAR AS I KNOW, WE HAVE NO LICENSE FROM CISCO.

03:57PM 21 Q. SO IT'S NOT A TRUE STATEMENT THAT ARISTA WROTE ALL OF ITS

03:57PM 22 SOURCE CODE FROM SCRATCH, THERE ARE CODE IN THAT EOS PRODUCT

03:57PM 23 THAT CAME FROM OTHER PLACES; ISN'T THAT TRUE?

03:57PM 24 A. IT'S TRUE THAT THERE'S SOURCE CODE FROM OTHER COMPANIES IN

03:58PM 25 EOS.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:58PM 1 Q. IN FACT THE OPTUMSOFT CODE IS USED TO WRITE SOMETHING  
03:58PM 2 CALLED SYSDB?

03:58PM 3 A. I DON'T UNDERSTAND WHAT YOU MEAN TO USE THE CODE IS USED TO  
03:58PM 4 WRITE SYSDB. I DON'T UNDERSTAND THAT TO BE ACCURATE.

03:58PM 5 Q. YOU UNDERSTAND WHAT SYSDB IS?

03:58PM 6 A. YES.

03:58PM 7 Q. YOU HAVE A SYSDB COMPONENT?

03:58PM 8 A. WE DO.

03:58PM 9 Q. WHAT IS SYSDB?

03:58PM 10 A. SYSDB IS THE DATABASE THAT HOLDS THE STATE OF SWITCH.

03:58PM 11 Q. HOW IS IT USED INSIDE THE ARISTA OPERATING SYSTEM?

03:58PM 12 A. IT'S USED TO HOLD THE STATE OF THE SWITCH, SUCH AS WHICH  
03:58PM 13 TRANSCEIVERS ARE INSERTED INTO WHICH SLOTS, AND WHICH LINKS ARE  
03:58PM 14 UP AND WHICH LINKS ARE DOWN.

03:58PM 15 Q. AND ISN'T IT ALSO TRUE THAT SYSDB IS USED AS PART OF THE  
03:58PM 16 CLI PARSING FUNCTIONALITY FOR ARISTA?

03:58PM 17 A. I DON'T THINK THAT'S ACCURATE.

03:58PM 18 Q. DO YOU HAVE ANY PERSONAL KNOWLEDGE OF HOW THE PARSER WORKS  
03:58PM 19 WITH THE SYSDB COMPONENT?

03:58PM 20 A. YES.

03:58PM 21 Q. WHO WOULD HAVE BETTER KNOWLEDGE OF THAT, YOU OR MR. --  
03:58PM 22 VICE PRESIDENT SWEENEY WHO TESTIFIED ABOUT THAT TOPIC?

03:59PM 23 A. I WOULD SAY WE BOTH HAVE DETAILED KNOWLEDGE OF THAT.

03:59PM 24 Q. DO YOU HAVE ANY UNDERSTANDING OF THE RULE THAT SYSDB PLAYS  
03:59PM 25 IN CLI PARSING?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

03:59PM

1

A. YES, I DO.

03:59PM

2

Q. OKAY. CAN YOU EXPLAIN TO THE JURY WHAT THAT ROLE IS?

03:59PM

3

A. SURE. WHEN THE USER ENTERS A CLI COMMAND INTO THE SWITCH

03:59PM

4

THE CLI PARSER PARSES THE COMMAND. IF THE COMMAND IS

03:59PM

5

RECOGNIZED, THEN AN ACTION FUNCTION IS EXECUTED TO CORRESPOND

03:59PM

6

TO THAT COMMAND.

03:59PM

7

THAT ACTION FUNCTION MAY OR MAY NOT, DEPENDING ON THE

03:59PM

8

COMMAND, READ OR WRITE STATE IN THE SYSTEM DATABASE.

03:59PM

9

Q. NOW, SIR, YOU KNOW THAT CISCO HAD A SYSDB TECHNOLOGY FOR

03:59PM

10

ITS OPERATING SYSTEMS BEFORE ARISTA DEVELOPED SYSDB; ISN'T THAT

03:59PM

11

TRUE?

03:59PM

12

A. THAT'S CORRECT.

03:59PM

13

Q. AND YOU KNOW, SIR, THAT CISCO HAS A PATENT ON ITS SYSDB

03:59PM

14

TECHNOLOGY THAT PREDATES ARISTA'S DEVELOPMENT AT SYSDB; YOU

03:59PM

15

KNOW THAT, RIGHT?

03:59PM

16

A. YES.

03:59PM

17

Q. NOW I WANT TO TALK ABOUT THE COMMAND CREATION PROCESS. SO

04:00PM

18

THIS IS GOING BACK TO THE SPECIFIC CLI COMMANDS NOW.

04:00PM

19

ARISTA ENGINEERS AND EMPLOYEES NEED TO DECIDE WHICH CLI

04:00PM

20

COMMANDS TO USE FOR PARTICULAR FUNCTIONS; ISN'T THAT CORRECT?

04:00PM

21

A. THAT'S RIGHT.

04:00PM

22

Q. AND RESOLVING THOSE QUESTIONS OF WHICH CLI COMMANDS AND

04:00PM

23

SYNTAX TO USE, REQUIRES ARISTA EMPLOYEES TO HAVE DESIGN

04:00PM

24

DISCUSSIONS; ISN'T THAT TRUE?

04:00PM

25

A. WE CERTAINLY HAVE CONVERSATIONS ABOUT WHAT CLI COMMANDS TO

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:00PM 1 USE.

04:00PM 2 Q. AND THOSE ARE DISCUSSIONS THAT HAPPEN WITHIN THE ARISTA

04:00PM 3 ENGINEERING COMMUNITY, CORRECT?

04:00PM 4 A. YES.

04:00PM 5 Q. AND THOSE DISCUSSIONS HAPPEN THROUGH E-MAILS AS WELL AS IN

04:00PM 6 PERSON MEETINGS; ISN'T THAT TRUE?

04:00PM 7 A. YES.

04:00PM 8 Q. AND YOU AGREE THAT THOSE DISCUSSIONS COULD LEAD TO DEBATES

04:00PM 9 ABOUT WHAT TYPES OF SYNTAX OR COMMANDS TO USE FOR THE SPECIFIC

04:00PM 10 COMMANDS THAT ARE AT ISSUE?

04:00PM 11 A. PEOPLE DON'T ALWAYS AGREE RIGHT AWAY. WE USUALLY FIND

04:00PM 12 CONSENSUS.

04:00PM 13 Q. BUT THEY DON'T AGREE RIGHT AWAY; ISN'T THAT TRUE?

04:01PM 14 A. NOT ALWAYS.

04:01PM 15 Q. AND THERE ARE SITUATIONS WHEN THE CONSENSUS ISN'T REACHED

04:01PM 16 WHEN IT COMES TO CLI COMMAND SYNTAX; ISN'T THAT TRUE?

04:01PM 17 A. THAT'S POSSIBLE, I DO NOT RECALL ANY SPECIFICALLY.

04:01PM 18 Q. LET'S SWITCH TOPICS A LITTLE BIT AND TALK ABOUT ARISTA'S

04:01PM 19 BEGINNINGS. ISN'T IT TRUE, SIR, THAT WHEN ARISTA FIRST CAME

04:01PM 20 INTO EXISTENCE, IT WASN'T FOUNDED TO CREATE SWITCHES, CORRECT?

04:01PM 21 A. THAT'S RIGHT.

04:01PM 22 Q. YOU HAD A DIFFERENT PRODUCT IDEA IN MIND, IT WAS CALLED

04:01PM 23 RAIL, R-A-I-L; IS THAT RIGHT?

04:01PM 24 A. WE CALLED THE DEVICE RAIL EDGE, THAT'S RIGHT.

04:01PM 25 Q. AND WHAT WAS RAIL, WHAT WAS THAT CONCEPT?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:01PM 1 A. THE IDEA OF THE RAIL TECHNOLOGY WAS TO CREATE MORE RELIABLE  
04:01PM 2 PRIVATE NETWORK CONNECTIONS BY MAKING USE OF MORE THAN ONE  
04:01PM 3 INTERNET CONNECTION.

04:01PM 4 SO YOU COULD SIGN UP FOR INTERNET SERVICE WITH MORE THAN  
04:01PM 5 ONE PROVIDER AND RUN YOUR PRIVATE LINK OVER ALL OF THOSE  
04:02PM 6 INTERNET CONNECTIONS IN PARALLEL.

04:02PM 7 Q. THAT WAS THE ORIGINAL IDEA FOR ARISTA, BUT IT TURNED OUT  
04:02PM 8 YOU CONCLUDED AS WELL AS THE OTHER FOUNDERS OF ARISTA, THAT  
04:02PM 9 THERE WAS NO MARKET FOR THAT PARTICULAR PRODUCT; ISN'T THAT  
04:02PM 10 TRUE?

04:02PM 11 A. THAT'S RIGHT.

04:02PM 12 Q. AND ULTIMATELY THAT RAIL PROJECT WAS CANCELLED; IS THAT  
04:02PM 13 RIGHT?

04:02PM 14 A. THAT'S RIGHT.

04:02PM 15 Q. AND THEN AFTER YOU CANCELLED THE RAIL PROJECT, YOU AND YOUR  
04:02PM 16 COFOUNDERS DECIDED TO FOCUS ON BUILDING HIGH SPEED ETHERNET  
04:02PM 17 SWITCHES, IS THAT TRUE?

04:02PM 18 A. IT WAS A FEW WEEKS AFTER.

04:02PM 19 Q. SO A FEW WEEKS AFTER THE INITIAL PROJECT WAS CANCELLED, YOU  
04:02PM 20 AND YOUR COLLEAGUES GOT TOGETHER AND DECIDED LET'S GO BUILD  
04:02PM 21 HIGH SPEED ETHERNET SWITCHES, CORRECT?

04:02PM 22 A. WHAT HAPPENED WAS ANDY BECHTOLSHEIM, WHO WAS ONE OF THE  
04:02PM 23 COFOUNDERS OF ARISTA, CAME WITH A DESIGN OF AN ETHERNET SWITCH  
04:02PM 24 HE HAD BEEN WORKING ON, AND IT WAS SUCH A BEAUTIFUL DESIGN THAT  
04:02PM 25 WE JUST KNEW WE HAD TO BUILD IT.



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:02PM 1 Q. NOW MR. BECHTOLSHEIM WORKED AT CISCO AS WELL?

04:02PM 2 A. THAT'S RIGHT.

04:02PM 3 Q. AND ISN'T IT TRUE BOTH YOU AND MR. BECHTOLSHEIM WORKED AT

04:03PM 4 CISCO FOR MANY YEARS?

04:03PM 5 A. I WAS THERE FOR ABOUT TWO-AND-A-HALF YEARS.

04:03PM 6 Q. AND HOW LONG DID ABOUT BECHTOLSHEIM WORK AT CISCO?

04:03PM 7 A. I'M NOT SURE.

04:03PM 8 Q. LONGER THAN YOU?

04:03PM 9 A. I BELIEVE SO.

04:03PM 10 Q. AND YOU RECALL THAT YOU AND MR. BECHTOLSHEIM WORKED

04:03PM 11 TOGETHER AT A COMPANY PRIOR TO CISCO?

04:03PM 12 A. YES, WE DID.

04:03PM 13 Q. OKAY, WHAT WAS THE NAME OF THAT UMP CAN?

04:03PM 14 A. IT WAS CALLED GRANITE SYSTEMS.

04:03PM 15 Q. WAS THAT COMPANY ACQUIRED BY CISCO?

04:03PM 16 A. YES.

04:03PM 17 Q. AND THEN THAT TECHNOLOGY WAS THEN USED BY CISCO IN SOME OF

04:03PM 18 CISCO'S OPERATING SYSTEM PRODUCTS; IS THAT CORRECT?

04:03PM 19 A. WHEN YOU SAY "THAT TECHNOLOGY," YOU ARE REFERRING TO

04:03PM 20 TECHNOLOGY WE DEVELOPED AT GRANITE SYSTEMS?

04:03PM 21 Q. YES.

04:03PM 22 A. YES.

04:03PM 23 Q. AND CISCO PAID YOU AND THE OTHER EMPLOYEES AND THE

04:03PM 24 INVESTORS OF GRANITE SYSTEMS TO ACQUIRE THAT TECHNOLOGY; ISN'T

04:03PM 25 THAT TRUE?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:03PM 1 A. THAT'S RIGHT.

04:03PM 2 Q. NOW, MOVING FORWARD, ARISTA MAKES PRODUCTS FOR WHAT IT

04:03PM 3 CALLS HIGH SPEED ETHERNET SWITCHES; IS THAT RIGHT?

04:03PM 4 A. COULD YOU REPEAT THE QUESTION, PLEASE.

04:03PM 5 Q. SURE.

04:03PM 6 ARISTA MAKES PRODUCTS FOR WHAT'S CALLED HIGH SPEED ETHERNET

04:04PM 7 DATA CENTER SWITCHING; IS THAT TRUE?

04:04PM 8 A. WE MAKE HIGH SPEED DATA CENTER ETHERNET SWITCHES.

04:04PM 9 Q. IS THAT YOUR PRIMARY MARKET?

04:04PM 10 A. YES.

04:04PM 11 Q. OKAY. BESIDES SWITCHES, DO YOU MAKE ANY OTHER TYPE OF

04:04PM 12 PRODUCTS?

04:04PM 13 A. YES, WE DO.

04:04PM 14 Q. AND TYPE OF PRODUCTS DO YOU MAKE?

04:04PM 15 A. WE MAKE SOME NETWORK MANAGEMENT SOFTWARE CALLED CLOUD

04:04PM 16 VISION.

04:04PM 17 Q. THAT SITS ON TOP OF THE ETHERNET SWITCHES, CORRECT?

04:04PM 18 A. I'M NOT SURE WHAT YOU MEAN BY "SITS ON TOP OF," BUT CLOUD

04:04PM 19 VISION RUNS INDEPENDENTLY OF THE SWITCHES THEMSELVES.

04:04PM 20 Q. IN TERMS OF SPECIFIC ROUTING OR NETWORKING PRODUCTS, YOU

04:04PM 21 GUYS MAKE ETHERNET SWITCHES; IS THAT TRUE?

04:04PM 22 A. WE DO.

04:04PM 23 Q. OKAY. AND ARISTA MAKES UP AROUND 12 PERCENT OF THE HIGH

04:04PM 24 SPEED ETHERNET DATA CENTER SWITCHING MARKET; DOES THAT SOUND

04:04PM 25 RIGHT TO YOU?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:04PM 1 A. THAT SOUND SOUNDS ABOUT RIGHT.

04:04PM 2 Q. AND CISCO'S MARKET SHARE OF THAT MARKET IS AROUND

04:04PM 3 66 PERCENT; IS THAT RIGHT?

04:05PM 4 A. THAT IS SOUNDS CLOSE, BUT I ACTUALLY DON'T KNOW FOR SURE.

04:05PM 5 Q. DOES THAT SOUND RIGHT TO YOU?

04:05PM 6 A. IT SOUNDS CLOSE, BUT I ACTUALLY DON'T KNOW FOR SURE.

04:05PM 7 Q. OKAY. WELL, LET'S PLAY YOUR DEPOSITION. OR MAYBE THIS

04:05PM 8 TIME YOU CAN JUST TAKE A LOOK AT YOUR DEPOSITION TESTIMONY ON

04:05PM 9 PAGE 161, LINE 19 TO LINE 22.

04:05PM 10 A. I SEE IT.

04:05PM 11 Q. OKAY. DOES THAT REFRESH YOUR RECOLLECTION?

04:05PM 12 A. NO.

04:05PM 13 Q. OKAY. THEN LET'S HAVE THAT PLAYED FOR THE AUDIENCE.

04:05PM 14 MR. PAK: YOUR HONOR, MAY I PLAY THAT CLIP?

04:05PM 15 THE COURT: SURE.

04:05PM 16 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:05PM 17 BY MR. PAK:

04:05PM 18 Q. THAT WAS THE SWORN TESTIMONY YOU GAVE UNDER OATH, CORRECT?

04:06PM 19 A. YES, THAT'S RIGHT.

04:06PM 20 Q. AND IN THE MARKETS THAT YOU COMPETE WITH CISCO,

04:06PM 21 PARTICULARLY THE DATA CENTER MARKET, ARISTA HAS GAINED MARKET

04:06PM 22 SHARE AND CISCO HAS LOST MARKET SHARE IN THE SAME MARKET, IS

04:06PM 23 THAT TRUE?

04:06PM 24 A. I BELIEVE THAT'S RIGHT.

04:06PM 25 Q. SOME OF YOUR MAJOR OR TOP CUSTOMERS AT ARISTA WERE FORMER

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:06PM 1 CISCO CUSTOMERS; ISN'T IT TRUE?

04:06PM 2 A. I BELIEVE THEY ARE CONTINUING CISCO CUSTOMERS AS WELL.

04:06PM 3 Q. SO LET'S BREAK IT INTO PIECES. SO BEFORE THEY BOUGHT ANY

04:06PM 4 ARISTA EQUIPMENT SOME OF YOUR TOP CUSTOMERS WERE CISCO

04:06PM 5 CUSTOMERS; ISN'T THAT TRUE?

04:06PM 6 A. YES.

04:06PM 7 Q. OKAY. AND EVEN TODAY, THOSE SAME CUSTOMERS ARE BUYING

04:06PM 8 PRODUCTS FROM CISCO; ISN'T THAT RIGHT?

04:06PM 9 A. I WOULDN'T KNOW IN EVERY CASE, BUT I BELIEVE THAT TO BE

04:06PM 10 BROADLY CORRECT.

04:06PM 11 Q. AND SOME OF THESE TOP CUSTOMERS INCLUDE CUSTOMERS LIKE

04:06PM 12 MICROSOFT, FACEBOOK, CITIBANK; DID I GET THAT RIGHT?

04:06PM 13 A. YES.

04:07PM 14 Q. I WANT TO NOW SWITCH TOPICS TO TALK ABOUT SOME OF THE

04:07PM 15 COPYING IN THIS CASE. ARE YOU WITH ME?

04:07PM 16 A. YES.

04:07PM 17 Q. OKAY. YOU KNOW A PERSON NAMED DAVID SOLLENDER, CORRECT?

04:07PM 18 A. YES.

04:07PM 19 Q. HE WAS AN EMPLOYEE OF ARISTA; IS THAT RIGHT?

04:07PM 20 A. YES.

04:07PM 21 Q. AND AT ARISTA, HE WAS WHAT'S CALLED A TECHNICAL WRITER,

04:07PM 22 CORRECT?

04:07PM 23 A. THAT'S RIGHT.

04:07PM 24 Q. SO HE WOULD WRITE THE TECHNICAL MANUALS, USER DOCUMENTATION

04:07PM 25 FOR YOUR PRODUCTS; IS THAT RIGHT?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:07PM 1 A. UH-HUH.

04:07PM 2 Q. AND IT'S TRUE THAT THERE WAS A TIME WHEN ARISTA WAS SELLING

04:07PM 3 PRODUCTS IN THE 2008 TO 2010 TIME PERIOD WHEN ARISTA DID NOT

04:07PM 4 HAVE USER MANUALS TO DESCRIBE ITS PRODUCTS; ISN'T THAT TRUE?

04:07PM 5 A. I'M NOT SURE OF THE EXACT TIME PERIOD, BUT EARLY ON WE DID

04:07PM 6 NOT HAVE USER MANUALS.

04:07PM 7 Q. YOU DIDN'T HAVE THAT.

04:07PM 8 AND IN FACT, YOU WERE AWARE THAT CUSTOMERS OF ARISTA WERE

04:07PM 9 LOOKING AT CISCO DOCUMENTS, CISCO USER MANUALS TO UNDERSTAND

04:08PM 10 THE ARISTA USER INTERFACE; ISN'T THAT TRUE?

04:08PM 11 A. I'M NOT SURE ABOUT THAT SPECIFICALLY, IT'S CERTAINLY

04:08PM 12 POSSIBLE.

04:08PM 13 Q. WE WILL GET TO THAT.

04:08PM 14 NOW DAVID SOLLENDER WAS AN ARISTA EMPLOYEE, AND IT'S TRUE

04:08PM 15 HE COPIED CERTAIN EXCERPTS OUT OF CISCO'S TECHNICAL DOCUMENTS

04:08PM 16 AND INSERTED THOSE MATERIALS DIRECTLY INTO ARISTA'S TECHNICAL

04:08PM 17 DOCUMENTS; ISN'T THAT TRUE?

04:08PM 18 A. THERE WERE A FEW INSTANCES OF COPYING, THEY WERE QUITE

04:08PM 19 SMALL, BUT THEY WERE THERE.

04:08PM 20 Q. WELL, YOU THOUGHT IT WAS EGREGIOUS ENOUGH TO FIRE

04:08PM 21 MR. SOLLENDER; ISN'T THAT TRUE?

04:08PM 22 A. THE SECOND TIME, YEAH.

04:08PM 23 Q. WELL, SO HE DID IT FIRST AND THEN HE DID IT AGAIN?

04:08PM 24 A. THAT'S RIGHT.

04:08PM 25 Q. SO WHEN HE DID IT AGAIN FOR THE SECOND TIME, YOU FIRED

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:08PM 1 MR. SOLLENDER; IS THAT RIGHT?

04:08PM 2 A. HE ASSURED US HE WOULDN'T DO IT AGAIN, BUT HE DID. HE  
04:08PM 3 WOUND UP LEAVING THE COMPANY, I'M NOT SURE OF THE EXACT TERMS  
04:08PM 4 OF THAT, WHETHER HE WAS FIRED OR DEPARTED UNDER SOME AGREEMENT,  
04:08PM 5 BUT HE LEFT THE COMPANY.

04:08PM 6 Q. HE DIDN'T LEAVE OUT OF HIS OWN VOLITION, YOU ASKED HIM TO  
04:09PM 7 LEAVE?

04:09PM 8 A. WE NEGOTIATED FOR HIS DEPARTURE ONE WAY OR THE OTHER. I'M  
04:09PM 9 SORRY, I JUST DON'T KNOW THE EXACT DETAILS OF WHETHER HE WAS  
04:09PM 10 TECHNICALLY FIRED, BUT WE DID ARRANGE FOR THAT.

04:09PM 11 Q. SO SETTING ASIDE THE TECHNICALITIES, YOU ASKED  
04:09PM 12 MR. SOLLENDER TO LEAVE THE COMPANY; ISN'T THAT TRUE?

04:09PM 13 A. THAT'S RIGHT.

04:09PM 14 Q. AND THE REASON FOR THAT WAS HE COPIED FROM CISCO'S  
04:09PM 15 DOCUMENTS AND THAT WAS A VIOLATION OF CISCO'S INTELLECTUAL  
04:09PM 16 PROPERTY RIGHTS; ISN'T THAT RIGHT?

04:09PM 17 A. THERE WAS A MALL AMOUNT OF COPYING AND WHETHER THAT'S A  
04:09PM 18 LEGAL VIOLATION, I ACTUALLY DON'T KNOW.

04:09PM 19 Q. THAT VIOLATED CISCO'S INTELLECTUAL PROPERTY RIGHTS, TRUE?

04:09PM 20 MR. SILBERT: OBJECTION. CALLS FOR A LEGAL  
04:09PM 21 CONCLUSION.

04:09PM 22 THE COURT: OVERRULED.

04:09PM 23 THE WITNESS: IF IT'S A LEGAL QUESTION, I JUST DON'T  
04:09PM 24 KNOW.

04:09PM 25 BY MR. PAK:

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:09PM 1 Q. OKAY. LET'S LOOK AT YOUR VIDEO DEPOSITION, OR ACTUALLY  
04:09PM 2 LET'S FIRST GO TO YOUR DEPOSITION, SIR.

04:09PM 3 TAKE A LOOK AT PAGE 132. TAKE A LOOK AT PAGE 131, LINE 23  
04:10PM 4 TO PAGE 132, LINE 5.

04:10PM 5 DO YOU SEE YOUR TESTIMONY THERE?

04:10PM 6 MR. PAK: YOUR HONOR, I WOULD LIKE TO PLAY THE VIDEO  
04:10PM 7 TESTIMONY.

04:10PM 8 THE COURT: YES.

04:10PM 9 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:10PM 10 Q. THAT WAS YOUR SWORN TESTIMONY, ISN'T IT?

04:10PM 11 A. YES.

04:10PM 12 Q. OKAY. AND YOU KNOW THAT PART OF WHAT MR. SOLLENDER COPIED  
04:10PM 13 FROM CISCO'S TECHNICAL DOCUMENTS INTO ARISTA'S TECHNICAL  
04:11PM 14 DOCUMENTS WERE DESCRIPTIONS OF CISCO'S CLI COMMANDS, CORRECT?

04:11PM 15 A. I DON'T RECALL THE EXACT PORTIONS COPIED.

04:11PM 16 Q. OKAY. LET'S TAKE A LOOK AT YOUR DEPOSITION AGAIN. THIS  
04:11PM 17 TIME IT'S PAGE 128, LINE 237.

04:11PM 18 MR. PAK: AND YOUR HONOR, MAY I PLAY THE VIDEO,  
04:11PM 19 PLEASE?

04:11PM 20 THE COURT: YES.

04:11PM 21 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:11PM 22 Q. NO ONE ELSE WAS ASKED TO LEAVE ARISTA FOR THE COPYING OF  
04:11PM 23 THESE DOCUMENTS, CORRECT?

04:11PM 24 A. NO.

04:11PM 25 Q. AND YOU UNDERSTAND THAT THERE WERE CLI COMMAND ELEMENTS

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:11PM 1 THAT WERE COPIED FROM CISCO INTO ARISTA'S PRODUCTS; YOU

04:11PM 2 UNDERSTAND THAT, CORRECT?

04:11PM 3 A. SORRY, I DON'T QUITE KNOW WHAT YOU MEAN.

04:12PM 4 Q. YOU UNDERSTAND THAT ARISTA COPIED SOME OF THE COMMANDS AT

04:12PM 5 ISSUE IN THIS CASE FROM CISCO; YOU UNDERSTAND THAT, CORRECT?

04:12PM 6 A. OUR COMMAND INTERPRETER RECOGNIZES MANY OF THE SAME

04:12PM 7 COMMANDS, THAT'S RIGHT.

04:12PM 8 Q. ARE YOU DENYING, SIR, THAT ARISTA COPIED CISCO'S CLI

04:12PM 9 COMMANDS FROM CISCO SOURCES; ARE YOU DENYING THAT?

04:12PM 10 A. COPIED FROM?

04:12PM 11 Q. CISCO SOURCES?

04:12PM 12 A. NO, I'M NOT.

04:12PM 13 Q. YOU ARE NOT DENYING THAT, RIGHT?

04:12PM 14 A. NO.

04:12PM 15 Q. SO CISCO COPIED CLI COMMANDS AND SOME OUTPUTS FROM CISCO

04:12PM 16 SOURCES INTO ARISTA PRODUCTS, CORRECT?

04:12PM 17 A. WE DIDN'T COPY CISCO OUTPUTS INTO OUR CODE, NO, I DON'T

04:12PM 18 THINK THAT'S ACCURATE.

04:12PM 19 Q. LET ME FOCUS ON THE COMMANDS, WE WILL GET TO THE OUTPUTS

04:12PM 20 LATER.

04:12PM 21 ISN'T IT TRUE, SIR, THAT ARISTA COPIED SOME OF CISCO'S CLI

04:12PM 22 COMMANDS FROM CISCO SOURCES AND PUT IT INTO ARISTA'S PRODUCTS?

04:12PM 23 A. YES, THAT'S RIGHT.

04:12PM 24 Q. THAT'S RIGHT.

04:12PM 25 BUT NO ONE ELSE AT ARISTA HAS BEEN REPRIMANDED OR ASKED TO



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:13PM 1 LEAVE FOR THAT COPYING, CORRECT?

04:13PM 2 A. WE DON'T BELIEVE IT WAS WRONG.

04:13PM 3 Q. AND AGAIN, YOU DIDN'T RECEIVE ANY TRAINING ON INTELLECTUAL  
04:13PM 4 PROPERTY PRIOR TO THIS LAWSUIT, CORRECT?

04:13PM 5 A. NO.

04:13PM 6 Q. OKAY.

04:13PM 7 AND YOU ADMIT, SIR, THAT IT'S NOT A COINCIDENCE THAT ARISTA  
04:13PM 8 HAS SO MANY CLI COMMANDS THAT WERE TAKEN FROM CISCO'S  
04:13PM 9 INTERFACE, THAT'S NOT A COINCIDENCE, IS IT, SIR?

04:13PM 10 A. NO, IT'S NOT.

04:13PM 11 Q. OKAY. IN FACT, YOU SAID ARISTA SLAVISHLY COPIED THE CISCO  
04:13PM 12 CLI COMMANDS; ISN'T THAT TRUE? SIR?

04:13PM 13 A. NO, I DIDN'T SAY THAT.

04:13PM 14 Q. LET'S TAKE A LOOK AT PAGE 47 OF YOUR DEPOSITION, LINE 19  
04:13PM 15 THROUGH 23.

04:14PM 16 MR. PAK: AND YOUR HONOR, MAY I PLAY THE VIDEO CLIP?

04:14PM 17 THE COURT: YES.

04:14PM 18 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:14PM 19 Q. THAT WAS YOUR SWORN TESTIMONY, SIR, RIGHT?

04:14PM 20 A. YES, BUT I WASN'T ACTUALLY TALKING ABOUT THE CISCO CLI IN  
04:14PM 21 THE CASE.

04:14PM 22 Q. THAT WAS YOUR SWORN TESTIMONY, WASN'T IT, SIR?

04:14PM 23 A. IT IS.

04:14PM 24 Q. OKAY. AND DESPITE ALL THIS COPYING, NOBODY AT ARISTA EVER  
04:14PM 25 APPROACHED CISCO FOR A LICENSE TO USE ANY OF CISCO'S CLI

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:14PM 1 COMMANDS; ISN'T THAT RIGHT?

04:14PM 2 A. NO, WE DID NOT.

04:14PM 3 Q. TERMS OF ACCESS, SIR, YOU KEPT PHYSICAL CISCO SWITCHES

04:14PM 4 RUNNING IN YOUR OFFICE DURING YOUR TENURE AT ARISTA; ISN'T THAT

04:14PM 5 TRUE?

04:14PM 6 A. YES.

04:14PM 7 Q. AND YOU MADE THOSE SWITCHES AVAILABLE TO OTHER ENGINEERS

04:14PM 8 WITHIN ARISTA, ISN'T THAT RIGHT?

04:14PM 9 A. YES.

04:14PM 10 Q. AND IN FACT, LET'S TAKE A LOOK AT EXHIBIT 189 IN YOUR

04:15PM 11 BINDER. THIS IS A DEVELOPMENT ENVIRONMENT DOCUMENT THAT WAS

04:15PM 12 CREATED AT ARISTA NETWORKS AS PART OF ITS BUSINESS, CORRECT?

04:15PM 13 A. YES.

04:15PM 14 Q. OKAY.

04:15PM 15 MR. PAK: YOUR HONOR, I WOULD LIKE TO MOVE

04:15PM 16 EXHIBIT 189 INTO THE RECORD.

04:15PM 17 MR. SILBERT: NO OBJECTION.

04:15PM 18 THE COURT: IT WILL BE ADMITTED.

04:15PM 19 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 189, HAVING BEEN

04:15PM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

04:15PM 21 EVIDENCE.)

04:15PM 22 BY MR. PAK:

04:15PM 23 Q. MR. FISHER, LET'S BRING THIS DOCUMENT UP. *DEVELOPMENT*

04:15PM 24 *ENVIRONMENT* IS THE TITLE OF THIS DOCUMENT, CORRECT?

04:15PM 25 A. YES.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:15PM 1 Q. AND AGAIN, JUST TO REMIND EVERYONE HERE, THIS IS  
04:15PM 2 EXHIBIT 189, CORRECT? THAT'S WHAT'S LABELED IN THE BINDER?  
04:16PM 3 A. YES.  
04:16PM 4 Q. CAN YOU EXPLAIN TO THE LADIES AND GENTLEMEN OF THE JURY  
04:16PM 5 WHAT IT MEANS WHEN IT SAYS AID9 AT THE VERY TOP THERE, AID9.  
04:16PM 6 A. SURE.  
04:16PM 7 WE HAVE A DOCUMENT CATALOGING SYSTEM THAT ARISTA, FOR  
04:16PM 8 INTERNAL DOCUMENTS, WHERE WE ASSIGN NUMBERS TO CERTAIN  
04:16PM 9 DOCUMENTS TO REFER TO THEM MORE EASILY. AND THIS DOCUMENT IS  
04:16PM 10 ARISTA INTERNAL DOCUMENT NUMBER 9.  
04:16PM 11 Q. SO THIS IS THE NINTH DOCUMENT THAT WAS ADDED TO THIS  
04:16PM 12 INTERNAL DATABASE OF DOCUMENTS?  
04:16PM 13 A. MOST LIKELY, BUT WE DON'T NECESSARILY ALWAYS GO STRICTLY IN  
04:16PM 14 ORDER.  
04:16PM 15 Q. CLOSE TO 9?  
04:16PM 16 A. SURE.  
04:16PM 17 Q. OKAY. AND THE DOCUMENT OWNER IS KENNETH DUDA; IS THAT  
04:16PM 18 RIGHT?  
04:16PM 19 A. YES.  
04:16PM 20 Q. AND I THINK WE COVERED THIS, THE DATE SAYS JUNE 19, 2014,  
04:16PM 21 BUT THAT WAS THE DATE IT WAS PRINTED NOT THE DATE IT WAS  
04:16PM 22 CREATED; IS THAT TRUE?  
04:16PM 23 A. I BELIEVE IT WAS THE DATE THE DOCUMENT WAS LAST MODIFIED.  
04:16PM 24 Q. I SEE. SO THERE WERE PRIOR VERSIONS OF THIS DOCUMENT; IS  
04:16PM 25 THAT RIGHT?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:16PM 1 A. THAT'S RIGHT. I BELIEVE THIS IS REVISION NUMBER 44.

04:16PM 2 Q. AND DOES THIS DOCUMENT STILL EXIST IN YOUR AID DATABASE?

04:17PM 3 A. I PRESUME IT DOES, BUT I DON'T KNOW FOR SURE.

04:17PM 4 Q. IT WAS PRODUCED IN THIS CASE BY ARISTA?

04:17PM 5 A. I ASSUME SO.

04:17PM 6 Q. LET'S TAKE A LOOK IN THIS DOCUMENT AT, THERE'S A CHART --

04:17PM 7 YES. IF YOU COULD LOOK AT THE LAST PAGE OF THIS DOCUMENT, AND

04:17PM 8 AT THE VERY TOP, FIRST OF ALL, MR. FISHER, IF YOU COULD

04:17PM 9 HIGHLIGHT NETWORK RESOURCES THERE.

04:17PM 10 AND WHAT IS THE PURPOSE OF THIS DOCUMENT? WHAT WERE YOU

04:17PM 11 TRYING TO DO WITH THIS DOCUMENT?

04:17PM 12 A. WELL, I THINK THE PURPOSE OF THIS DOCUMENT IS TO HELP

04:17PM 13 SOFTWARE ENGINEERS UNDERSTAND ELEMENTS OF THE DEVELOPMENT

04:17PM 14 ENVIRONMENT IN WHICH WE EXPECT THEM TO CREATE SOFTWARE.

04:17PM 15 Q. SO YOU ARE TELLING THE ARISTA ENGINEERS WHEN YOU DEVELOP

04:18PM 16 SOFTWARE FOR ARISTA, THESE ARE THE DEVELOPMENT ENVIRONMENTS YOU

04:18PM 17 HAVE TO WORK WITH, CORRECT?

04:18PM 18 A. THAT'S RIGHT.

04:18PM 19 Q. OKAY. SO AS PART OF THIS DIRECTION TO ARISTA ENGINEERS,

04:18PM 20 THERE'S SOMETHING CALLED NETWORK RESOURCES IN THIS DOCUMENT; DO

04:18PM 21 YOU SEE THAT?

04:18PM 22 A. YES.

04:18PM 23 Q. ALL RIGHT.

04:18PM 24 AND CAN YOU READ INTO THE RECORD WHAT YOU SAID RIGHT UNDER

04:18PM 25 "NETWORK RESOURCES?"

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:18PM 1 A. HERE IS A TABLE OF SOME THINGS ON THE INTERNAL NETWORK THAT  
04:18PM 2 CAN BE USEFUL TO GET YOUR WORK DONE.

04:18PM 3 Q. SO YOU WERE TELLING PEOPLE, LOOK HERE'S SOME OF THE  
04:18PM 4 RESOURCES WE HAVE, IF YOU WANT TO DO WORK AS AN ARISTA  
04:18PM 5 ENGINEER, YOU CAN USE SOME OF THESE RESOURCES THAT ARE  
04:18PM 6 AVAILABLE ON THE NETWORK, CORRECT?

04:18PM 7 A. THAT'S RIGHT.

04:18PM 8 Q. AND LET'S TAKE A LOOK AT THE LAST ENTRY. IT SAYS, CISCO  
04:18PM 9 806, CORRECT?

04:18PM 10 A. YES.

04:18PM 11 Q. CAN YOU READ INTO THE RECORD YOUR DESCRIPTION FOR THAT  
04:18PM 12 PARTICULAR NETWORK RESOURCE?

04:18PM 13 A. THE NOTES SAY, A REAL-LIFE CISCO 806, WHICH IS A BRANCH  
04:19PM 14 OFFICE VPN GATEWAY. YOU CAN LEARN ABOUT THE IOS CLI, LOGGING,  
04:19PM 15 AND GENERAL DEVICE BEHAVIOR. THIS DEVICE -- THE DEVICE IS  
04:19PM 16 PHYSICALLY LOCATED ON K. DUDA'S DESK. ALL RELEVANT USER NAMES  
04:19PM 17 AND PASSWORDS ARE ARASTRA.

04:19PM 18 Q. K.DUDA, THAT WAS YOUR E-MAIL ALIAS, CORRECT?

04:19PM 19 A. THAT'S CORRECT.

04:19PM 20 Q. SO CISCO 806 WAS A COMMAND OR MECHANISM THAT ARISTA  
04:19PM 21 ENGINEERS WOULD USE ON YOUR INTERNAL NETWORK TO GET TO THIS  
04:19PM 22 CISCO PRODUCT THAT WAS SITTING ON YOUR DESK; IS THAT RIGHT?

04:19PM 23 A. THAT'S RIGHT.

04:19PM 24 Q. OKAY. AND THE OLD RELEVANT USER NAME AND PASSWORDS ARE  
04:19PM 25 ARESTRA, THAT'S THE OLD NAME FOR ARISTA; IS THAT RIGHT?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:19PM 1

A. THAT'S RIGHT.

04:19PM 2

Q. SO ANYONE WHO IS DEVELOPING SOFTWARE AT ARISTA COULD SIMPLY

04:19PM 3

TELL THAT TO GET TO A CISCO 806 PRODUCT TO LEARN ABOUT, IN YOUR

04:20PM 4

WORDS, IOS CLI, LOGGING AND GENERAL DEVICE BEHAVIOR; ISN'T THAT

04:20PM 5

TRUE?

04:20PM 6

A. YES.

04:20PM 7

Q. LET'S LOOK AT HOW SOME OF THE ENGINEERS USED THAT RESOURCE.

04:20PM 8

THIS IS EXHIBIT 193. BY THE WAY, THAT WASN'T THE ONLY PRODUCT

04:20PM 9

YOU HAD, YOU HAD SOME OTHER CISCO PRODUCTS TOO, PROTECT?

04:20PM 10

A. YES.

04:20PM 11

Q. OKAY. SO LET'S TAKE A LOOK AT THIS DOCUMENT IN YOUR

04:20PM 12

BINDER, THIS WAS AN E-MAIL THAT WAS SENT FROM JAMES LINGARD TO

04:20PM 13

AN E-MAIL ALIAS CALLED ENG, THAT STOOD FOR ENGINEERING,

04:20PM 14

CORRECT?

04:20PM 15

A. THAT'S RIGHT.

04:20PM 16

Q. SO THIS WAS AN E-MAIL ALIAS THAT WOULD INCLUDE ALL THE

04:20PM 17

ENGINEERS AT ARISTA AT THE TIME; IS THAT RIGHT?

04:20PM 18

A. YES.

04:20PM 19

Q. THAT WOULD HAVE INCLUDED YOU AT THE TIME, CORRECT?

04:20PM 20

A. THAT'S RIGHT.

04:20PM 21

MR. PAK: YOUR HONOR I WOULD LIKE TO MOVE THAT

04:20PM 22

DOCUMENT INTO EVIDENCE, EXHIBIT 193.

04:20PM 23

MR. SILBERT: NO OBJECTION.

04:20PM 24

THE COURT: IT WILL BE ADMITTED.

04:20PM 25

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:20PM 1 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 193, HAVING BEEN  
04:20PM 2 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:20PM 3 EVIDENCE.)

04:20PM 4 BY MR. PAK:

04:20PM 5 Q. SO LET'S BLOW UP THIS DOCUMENT AND THIS IS 193. YOU HAVE  
04:21PM 6 JAMES LINGARD SENDING AN E-MAIL ON APRIL 14, 2006, CORRECT?

04:21PM 7 A. YES.

04:21PM 8 Q. AND THIS WAS WHEN YOU WERE WORKING ON YOUR FIRST PRODUCT,  
04:21PM 9 THAT WAS A SWITCH PRODUCT, CORRECT?

04:21PM 10 A. SO THIS WAS AFTER WE COUNSELED THE RAIL PRODUCT AND WE WERE  
04:21PM 11 WORKING ON BUILDING AN ETHERNET SWITCH.

04:21PM 12 Q. THANK YOU.

04:21PM 13 AND THE SUBJECT IS, "SHOW PARSER DUMP." DO YOU SEE THAT?

04:21PM 14 A. YES.

04:21PM 15 Q. AND THAT'S A COMMAND THAT EXISTS INSIDE THE CISCO USER  
04:21PM 16 INTERFACE, CORRECT?

04:21PM 17 A. IT LOOKS LIKE IT.

04:21PM 18 Q. IT'S ONE OF THE SHOW COMMANDS THAT CISCO OFFERS, CORRECT?

04:21PM 19 A. I DON'T KNOW FOR SURE, BUT THAT'S WHAT THE DOCUMENT SEEMS  
04:21PM 20 TO SAY.

04:21PM 21 Q. ALL RIGHT. LET'S READ INTO THE RECORD, CAN YOU PLEASE READ  
04:21PM 22 AFTER?

04:21PM 23 A. JAMES WRITES, AFTER SEVERAL OF US HAVE SPENT NONTRIVIAL  
04:21PM 24 AMOUNTS OF TIME TRYING TO FIGURE OUT THE PRECISE SYNTAX OF THE  
04:21PM 25 INDUSTRY-STANDARD CLI COMMANDS, I'VE JUST DISCOVERED THE "SHOW

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:22PM 1 PARSE DUMP" COMMAND, WHICH DOES EXACTLY WHAT IT SAYS. FOR  
04:22PM 2 EXAMPLE.

04:22PM 3 Q. OKAY.

04:22PM 4 AND WOULD THE EXAMPLE THAT MR. LINGARD WAS SHOWING IS  
04:22PM 5 HIMSELF TYPING THE COMMAND SHOW PARSE DUMP CONFIG-VLAN INTO A  
04:22PM 6 CISCO DEVICE, THE CISCO 3560 THAT WAS RUNNING AT ARISTA,  
04:22PM 7 CORRECT?

04:22PM 8 A. IT LOOKS THAT WAY, BUT I CAN'T SAY FOR SURE FROM THIS  
04:22PM 9 E-MAIL.

04:22PM 10 Q. BUT THAT'S YOUR BEST INTERPRETATION OF THIS E-MAIL; IS THAT  
04:22PM 11 CORRECT?

04:22PM 12 A. IT SEEMS LIKELY.

04:22PM 13 Q. AND HE RUNS THAT COMMAND, AND THEN VOILA, YOU GET OUTPUT  
04:22PM 14 THAT SHOWS THE VARIOUS COMMANDS AND THE COMMAND SYNTAX OF THE  
04:22PM 15 CISCO IOS CLI; ISN'T THAT TRUE, SIR?

04:22PM 16 A. I DON'T KNOW, I DON'T UNDERSTAND THE OUTPUT OF THIS  
04:22PM 17 COMMAND.

04:22PM 18 Q. ARE YOU DENYING THAT, SIR?

04:22PM 19 A. I'M NOT DENYING IT EITHER, I'M JUST SAYING I DON'T KNOW.

04:23PM 20 Q. WHAT MR. LINGARD TELLS EVERYBODY IS WE SPENT LOTS OF TIME  
04:23PM 21 TRYING TO FIGURE OUT THE SYNTAX AND THE WORDS THAT ARE USED IN  
04:23PM 22 THE CISCO CLI, FIGURE OUT A COMMAND THAT DOES THAT; ISN'T THAT  
04:23PM 23 WHAT HE'S SAYING?

04:23PM 24 A. I REALLY DON'T UNDERSTAND THIS BECAUSE IT'S VERY EASY TO  
04:23PM 25 UNDERSTAND THE SYNTAX OF THE COMMANDS TO PUBLICLY AVAILABLE



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:23PM 1 DOCUMENTS ON CISCO'S WEBSITE, SO I REALLY DON'T UNDERSTAND WHY  
04:23PM 2 THIS IS NEEDED.

04:23PM 3 Q. YOU ARE NOT DENYING THAT ENGINEERS AT ARISTA SPEND  
04:23PM 4 NONTRIVIAL AMOUNTS OF TIME TRYING TO FIGURE OUT THE PRECISE  
04:23PM 5 SYNTAX OF WHAT THEY CALL INDUSTRY STANDARD CLI COMMANDS, AND  
04:23PM 6 THEN USED A CISCO PRODUCT TO UNDERSTAND THAT SYNTAX; ISN'T THAT  
04:23PM 7 TRUE, SIR?

04:23PM 8 A. WELL, THAT'S WHAT JAMES SAYS HERE, BUT I DON'T KNOW WHETHER  
04:23PM 9 THAT'S TRUE OR NOT.

04:23PM 10 I'M A LITTLE SURPRISED. I WOULDN'T THINK THAT IT WOULD  
04:23PM 11 TAKE VERY LONG TO FIGURE OUT THE SYNTAX, GIVEN THAT IT'S  
04:23PM 12 CLEARLY DOCUMENTED IN PUBLICLY AVAILABLE DOCUMENTATION.

04:23PM 13 Q. YOU WERE SURPRISED, BUT YOU WERE NOT DISPUTING WHAT  
04:23PM 14 HAPPENED HERE, CORRECT?

04:23PM 15 A. I DON'T KNOW.

04:24PM 16 Q. AND THEN LET'S TAKE A LOOK AT WHAT ELSE MR. LINGARD SAYS IN  
04:24PM 17 THE E-MAIL. IF YOU GO DOWN TO THE BOTTOM, MR. LINGARD ALSO  
04:24PM 18 SAYS, JUST TYPING SHOW PARSER DUMP IS QUITE INSTRUCTIVE FOR  
04:24PM 19 LIST OF ALL THE MODES SUPPORTED.

04:24PM 20 DO YOU SEE THAT?

04:24PM 21 A. I DO.

04:24PM 22 Q. AND IN ADDITION, SHOW PARSER DUMP EXTEND ALSO SHOWS THE  
04:24PM 23 HELP NAME AND HELP DESCRIPTION ASSOCIATED WITH EACH TOKEN;  
04:24PM 24 ISN'T THAT TRUE?

04:24PM 25 A. THAT'S WHAT IT SAYS.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:24PM 1 Q. OKAY. AND TOKEN IS A PART OF A COMMAND, A MULTIWORD  
04:24PM 2 COMMAND IS A TOKEN; IS THAT CORRECT?

04:24PM 3 A. THAT SOUNDS RIGHT.

04:24PM 4 Q. OKAY. AND ISN'T IT ALSO TRUE THAT ARISTA DIDN'T KEEP ANY  
04:24PM 5 OTHER SWITCHES ON ITS PREMISES OTHER THAN THE CISCO SWITCHES,  
04:24PM 6 CORRECT?

04:24PM 7 A. WE HAVE OTHER SWITCHES TODAY, I DON'T KNOW EXACTLY WHEN WE  
04:24PM 8 GOT THEM, I THINK IT DEPENDS ON WHAT TIME PERIOD YOU ARE  
04:25PM 9 TALKING ABOUT.

04:25PM 10 Q. LET'S TAKE A LOOK AT YOUR DEPOSITION TESTIMONY. PAGE 323,  
04:25PM 11 LINE 22, TO 324, LINE 1.

04:25PM 12 MR. SILBERT: I DON'T THINK THAT'S IMPEACHING AT ALL  
04:25PM 13 OF THE TESTIMONY HE JUST GAVE.

04:25PM 14 THE COURT: ALL RIGHT. I WILL TAKE A LOOK BEFORE WE  
04:25PM 15 DO THAT.

04:25PM 16 THE WITNESS: WOULD YOU REPEAT THE PAGE NUMBER,  
04:25PM 17 PLEASE.

04:25PM 18 MR. PAK: SURE. IT'S PAGE 323, LINE 22, TO PAGE 324,  
04:25PM 19 LINE 1.

04:25PM 20 THE COURT: YOU KNOW, IT DOESN'T SEEM LIKE A NON  
04:26PM 21 SEQUITUR TO ME.

04:26PM 22 MR. SILBERT: WELL, THE QUESTION -- THE WITNESS'S  
04:26PM 23 ANSWER WAS, "DEPENDS ON THE TIME PERIOD."

04:26PM 24 THE QUESTION IN THE DEPOSITION IS POSED IN THE PAST TENSE.

04:26PM 25 THE COURT: THIS IS 323 FROM THE 524?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:26PM 1 MR. PAK: YES, YOUR HONOR.

04:26PM 2 THE COURT: OKAY. I'M DOING SOMETHING WRONG BECAUSE  
04:26PM 3 MINE STARTS ON AN ANSWER AND ENDS ON A QUESTION, SO I'M LOOKING  
04:26PM 4 AT THE WRONG THING. I'M SORRY.

04:26PM 5 MR. PAK: SORRY, YOUR HONOR, IT'S MY FAULT,  
04:26PM 6 FEBRUARY 12, 2016, DEPOSITION. IT'S AT THE VERY END.

04:27PM 7 THE COURT: I WILL ALLOW IT.

04:27PM 8 MR. PAK: LET'S PLAY THE VIDEO CLIP, MR. FISHER.

04:27PM 9 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:27PM 10 BY MR. PAK:

04:27PM 11 Q. THAT WAS YOUR SWORN TESTIMONY, RIGHT, SIR?

04:27PM 12 A. YES.

04:27PM 13 Q. LET'S TURN TO ANOTHER EXHIBIT, EXHIBIT 190.

04:27PM 14 MR. PAK: AND YOUR HONOR THIS IS ACTUALLY 190, LET ME  
04:27PM 15 ASK IT THIS WAY:

04:27PM 16 Q. MR. DUDA, THIS IS AN E-MAIL YOU SENT ON AUGUST 27TH, 2008,  
04:27PM 17 TO A GENTLEMAN NAMED NATHAN SCHRENK; ISN'T THAT TRUE?

04:28PM 18 A. YES.

04:28PM 19 Q. AND HE WAS AN EMPLOYEE OF ARISTA AT THE TIME?

04:28PM 20 A. YES.

04:28PM 21 Q. OKAY.

04:28PM 22 MR. PAK: YOUR HONOR, I WOULD LIKE TO MOVE THIS  
04:28PM 23 DOCUMENT INTO EVIDENCE.

04:28PM 24 MR. SILBERT: NO OBJECTION.

04:28PM 25 THE COURT: IT WILL BE ADMITTED.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:28PM 1 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 190, HAVING BEEN  
04:28PM 2 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:28PM 3 EVIDENCE.)

04:28PM 4 BY MR. PAK:

04:28PM 5 Q. SO AT THE VERY TOP, THIS IS AN E-MAIL YOU SENT, CORRECT?

04:28PM 6 A. THAT'S RIGHT.

04:28PM 7 Q. AND NATHAN SCHRENK, WHO IS THAT?

04:28PM 8 A. HE'S AN ENGINEER AT ARISTA AT THE TIME.

04:28PM 9 Q. OKAY. AND CAN YOU READ INTO THE RECORD WHAT YOU TOLD  
04:28PM 10 MR. SCHRENK IN 2008?

04:28PM 11 A. SURE.

04:28PM 12 I WROTE, "I WONDER HOW HARD IT WOULD REALLY BE TO  
04:28PM 13 REVERSE-ENGINEER THE CISCO TRANSLATIONS. WE'D NEED TO SET UP A  
04:28PM 14 TACACS PLUS SERVER, T-A-C-A-C-S PLUS SERVER, CONFIGURE A CISCO  
04:28PM 15 BOX TO USE IT, MAKE SURE WE CAN SEE THE DETAILS OF THE  
04:28PM 16 AUTHORIZATION REQUESTS, AND THEN DO AN IN-ORDER TRAVERSAL OF  
04:29PM 17 THE CISCO CLI PARSE TREE, AND SEE WHAT COMES OUT. IT WOULD  
04:29PM 18 PROBABLY TAKE A DAY OR TWO, I GUESS, AND PRETTY BORING WORK,  
04:29PM 19 TOO."

04:29PM 20 Q. SO WHAT YOU WERE SUGGESTING HERE AT THE TIME WAS THAT YOU  
04:29PM 21 SHOULD, OR ONE OF THE IDEAS WAS TO REVERSE ENGINEER THIS CISCO  
04:29PM 22 CLI PERTAINING TO WHAT'S CALLED A TACACS PLUS SERVER; ISN'T  
04:29PM 23 THAT TRUE?

04:29PM 24 A. NOT QUITE. IT WAS REVERSE ENGINEERING TRANSLATIONS THAT  
04:29PM 25 GET APPLIED AS PART OF COMMUNICATION WITH THE TACACS PLUS

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:29PM 1

SERVER.

04:29PM 2

Q. AND THAT WAS A CISCO PRODUCT, RIGHT, SIR?

04:29PM 3

A. I'M SORRY, WHICH IS A CISCO PRODUCT?

04:29PM 4

Q. THE TACACS C+, OR THE CISCO BOX THAT'S REFERRED TO HERE, TO

04:29PM 5

CONFIGURE A CISCO BOX, THAT WAS THE CISCO BOX PRODUCT?

04:29PM 6

A. THAT'S RIGHT.

04:29PM 7

Q. OKAY. AND LOOKING AT SOME OF THE DISCUSSIONS THAT WERE

04:29PM 8

HAPPENING WITHIN ARISTA NOW ABOUT THE CLI COMMANDS, LET'S LOOK

04:30PM 9

AT EXHIBIT 182.

04:30PM 10

THIS WAS AN E-MAIL SENT BY LORENZ REDLEFSEN,

04:30PM 11

R-E-D-L-E-F-S-E-N, TO YOU ON JULY 2010; IS THAT CORRECT?

04:30PM 12

A. JULY 2ND, 2010, THAT'S RIGHT.

04:30PM 13

MR. PAK: AND YOUR HONOR, I WOULD LIKE TO MOVE THIS

04:30PM 14

DOCUMENT INTO EVIDENCE.

04:30PM 15

MR. SILBERT: NO OBJECTION.

04:30PM 16

THE COURT: IT WILL BE ADMITTED.

04:30PM 17

(WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 182, HAVING BEEN

04:30PM 18

PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

04:30PM 19

EVIDENCE.)

04:30PM 20

BY MR. PAK:

04:30PM 21

Q. OKAY. SO LET'S TAKE A LOOK AT WHAT YOU SAY ABOUT HALFWAY

04:30PM 22

DOWN ON THE FIRST PAGE HERE.

04:30PM 23

MR. REDLEFSEN, HE WAS AN ENGINEER AT ARISTA AT THE TIME?

04:30PM 24

A. THAT'S RIGHT.

04:30PM 25

Q. OKAY. HE WRITES, ACTUALLY, AS MIKE POINTS OUT, HE WAS JUST

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:30PM 1 FOLLOWING THE EXAMPLE SET IN IOS, THAT WAS THE CISCO OPERATING  
04:31PM 2 SYSTEM WE HAVE BEEN HEARING ABOUT, CORRECT?

04:31PM 3 A. THAT'S RIGHT.

04:31PM 4 Q. AND THERE'S A LINK TO THE CISCO WEBSITE, CORRECT?

04:31PM 5 A. YES.

04:31PM 6 Q. AND HE WRITES, DO WE WANT TO BE RIGHT AND FIX THIS OR DO WE  
04:31PM 7 WANT TO BE CONSISTENT AND LEAVE IT AS IS, AT LEAST FOR THE  
04:31PM 8 CLEAR COUNTERS MESSAGE.

04:31PM 9 DO YOU SEE THAT?

04:31PM 10 A. I DO.

04:31PM 11 Q. AND THEN LET'S SEE WHAT YOU SAID AT THE TOP. I DO NOT HAVE  
04:31PM 12 A STRONG OPINION, THE VALUE OF BEING CHARACTER FOR CHARACTER  
04:31PM 13 EQUIVALENT ON A SYSLOG PNEUMONIC SEEMS LOW, BUT THEN FOLLOWING  
04:31PM 14 THE INDUSTRY STANDARD PRECISELY MEANS WE DON'T HAVE TO ARGUE  
04:31PM 15 ABOUT EXACTLY WHAT THE PNEUMONIC SHOULD BE. SO I LEAN SLIGHTLY  
04:31PM 16 IN FAVOR OF BEING PRECISELY EQUIVALENT, BUT COULD GO EITHER  
04:31PM 17 WAY. IF WE ALREADY HAVE SOMETHING REASONABLE, LET'S NOT CHANGE  
04:31PM 18 IT.

04:31PM 19 THAT WAS YOUR GUIDANCE AT THE TIME, CORRECT?

04:31PM 20 A. THAT'S RIGHT.

04:32PM 21 Q. AND IF YOU GO ON TO THE VERY TOP OF THAT E-MAIL,  
04:32PM 22 MR. REDLEFSEN WRITES, GREAT, I TOTALLY AGREE, THIS IS "SETTLED  
04:32PM 23 LAW" NO NEED TO INNOVATE, SMILEY FACE, CORRECT?

04:32PM 24 A. YES.

04:32PM 25 Q. ISN'T IT TRUE, SIR, THAT YOU DECIDED TO EMBRACE THE CISCO

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:32PM 1 IOS CLI AS THE CLI MODEL FOR 2009 WITHIN ARISTA; ISN'T THAT  
04:32PM 2 TRUE?

04:32PM 3 A. YES.

04:32PM 4 Q. OKAY. AND YOU'VE STATED THAT, WE PICKED CISCO IOS AS THE  
04:32PM 5 CLI MODEL FOR OUR PRODUCTS, JUNOS, THAT'S A JUNIPER PRODUCT,  
04:32PM 6 CORRECT?

04:32PM 7 A. YES.

04:32PM 8 Q. JUNOS MAY BE A LOT BETTER BUT WE DECIDED TO EMBRACE IOS,  
04:33PM 9 THOSE WERE YOUR WORDS, CORRECT?

04:33PM 10 A. I DON'T RECALL THE EXACT WORDS.

04:33PM 11 Q. LET'S ME MAKE SURE I GET THE CONTEXT.

04:33PM 12 YOU AGREE WITH THE STATEMENT, WE PICKED CISCO IOS AS THE  
04:33PM 13 CLI MODEL FOR OUR PRODUCTS, JUNOS MAY BE A LOT BETTER, BUT WE  
04:33PM 14 DECIDED TO EMBRACE IOS, CORRECT? YOU AGREE WITH THAT?

04:33PM 15 A. WELL, NOT EXACTLY. I WOULD SAY WE PICKED AN INDUSTRY  
04:33PM 16 STANDARD APPROACH TO OUR CLI WHICH LARGELY REFLECTS THE CISCO  
04:33PM 17 CLI.

04:33PM 18 Q. YOU KNOW THAT JUNOS HAS DIFFERENT COMMANDS THAN CISCO FOR  
04:33PM 19 ITS JUNOS PRODUCTS, CORRECT?

04:33PM 20 A. I'M NOT AN EXPERT IN JUNOS, BUT I DO UNDERSTAND THE  
04:33PM 21 COMMANDS TEND TO BE DIFFERENT.

04:33PM 22 Q. AND JUNIPER IS A LARGE NETWORKING COMPANY; ISN'T THAT TRUE?

04:33PM 23 A. YES.

04:33PM 24 Q. JUNIPER COMPETES WITH YOU IN THE SWITCHING MARKETS?

04:33PM 25 A. YES, THEY DID.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:33PM 1 Q. LET'S LOOK AT ONE MORE DOCUMENT, EXHIBIT 194.

04:34PM 2 THIS IS AN E-MAIL THAT WAS SENT TO YOU FROM SOMEBODY NAMED

04:34PM 3 KARTIK AT ARISTA NETWORKS IN 2012; IS THAT TRUE?

04:34PM 4 A. THIS MESSAGE WAS GENERATED BY OUR BUG SYSTEM.

04:34PM 5 Q. OH, THAT'S, THIS WAS ONE OF THE MESSAGES THAT AUTOMATICALLY

04:34PM 6 GETS GENERATED; IS THAT RIGHT?

04:34PM 7 A. THAT'S CORRECT.

04:34PM 8 Q. AND THIS IS A BUG REPORTING SYSTEM THAT IS USED WITHIN

04:34PM 9 ARISTA?

04:34PM 10 A. I WOULD CALL IT A BUG TRACKING SYSTEM.

04:34PM 11 Q. A BUG TRACKING SYSTEM?

04:34PM 12 MR. PAK: YOUR HONOR, I WOULD LIKE TO ADMIT THIS INTO

04:34PM 13 EVIDENCE.

04:34PM 14 MR. SILBERT: NO OBJECTION.

04:34PM 15 THE COURT: IT WILL BE ADMITTED.

04:34PM 16 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 194, HAVING BEEN

04:34PM 17 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

04:34PM 18 EVIDENCE.)

04:34PM 19 BY MR. PAK:

04:34PM 20 Q. THEN IF YOU FOCUS ON THE BOTTOM OF THIS SLIDE OR THIS

04:34PM 21 DOCUMENT FROM ARISTA, THERE'S A DESCRIPTION

04:35PM 22 K.DUDA@ARISTANETWORKS.COM, 2011, OCTOBER 13TH.

04:35PM 23 DO YOU SEE THAT?

04:35PM 24 A. YES.

04:35PM 25 Q. AND SO THIS IS A COMMENT THAT YOU ACTUALLY MADE THAT WAS



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:35PM 1 BEING REPORTED IN THE BUG TRACKING SOFTWARE; IS THAT RIGHT?

04:35PM 2 A. THAT'S RIGHT.

04:35PM 3 Q. AND SO WHAT YOU WROTE IS "IT WOULD BE EVEN BETTER TO

04:35PM 4 INTEGRATE IT WITH THE CLI, LIKE WE DID WITH PING. IF WE DO

04:35PM 5 THIS, WE SHOULD GO ALL THE WAY, AND IOS-IFY, THE CLI; I.E.,

04:35PM 6 PROVIDE IOS-STYLE OPTIONS FOR THE MTR, OPTIONS AS IN..." AND

04:35PM 7 THEN YOU PROVIDE AN EXAMPLE.

04:35PM 8 IS THAT TRUE?

04:35PM 9 A. YES.

04:35PM 10 Q. AND THOSE ARE WORDS YOU WROTE, CORRECT?

04:35PM 11 A. THAT'S RIGHT.

04:35PM 12 Q. AND THAT WAS THE GUIDANCE YOU WERE GIVING TO THE

04:35PM 13 ENGINEERING COMMITTEE, CORRECT?

04:35PM 14 A. WELL, I'M NOT SURE I WAS GIVING ANY SPECIFIC GUIDANCE HERE,

04:35PM 15 BUT THOSE WERE MY COMMENTS.

04:35PM 16 Q. AND SIR, YOU HAVE TOLD, YOU AND OTHERS HAVE TOLD CUSTOMERS

04:36PM 17 OF ARISTA THAT YOUR CLI IS JUST LIKE CISCO'S CLI; ISN'T THAT

04:36PM 18 TRUE?

04:36PM 19 A. THAT DOESN'T SOUND RIGHT, THAT'S NOT THE WAY I WOULD

04:36PM 20 DESCRIBE IT.

04:36PM 21 Q. YOU HAVE PERSONALLY NEVER TOLD ANYONE THAT?

04:36PM 22 A. I MEAN, I DON'T THINK SO.

04:36PM 23 Q. ARE YOU AWARE OF OTHERS WITHIN ARISTA THAT HAVE TOLD CISCO

04:36PM 24 CUSTOMERS OR ARISTA CUSTOMERS THAT YOUR CLI IS JUST LIKE

04:36PM 25 CISCO'S?

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:36PM

1

A. NO, I'M NOT.

04:36PM

2

Q. HAVE YOU SPOKEN TO MR. SEDANA ABOUT STATEMENTS HE HAS MADE  
TO CUSTOMERS?

04:36PM

3

A. NOT THAT I RECALL.

04:36PM

4

04:36PM

5

Q. AND ISN'T IT ALSO TRUE, SIR, THAT AT TIMES YOU AND OTHERS  
WITHIN ARISTA FELT THAT THE COMMAND DECISIONS THAT CISCO HAD  
MADE WERE NOT GOOD DECISIONS, YET YOU DECIDED TO FOLLOW WHAT  
CISCO DID, ISN'T THAT A TRUE STATEMENT?

04:36PM

6

04:36PM

7

04:36PM

8

04:37PM

9

A. THAT'S PROBABLY HAPPENED, THOUGH I'M NOT SURE I COULD  
RECALL ANY EXAMPLES OFF HAND.

04:37PM

10

04:37PM

11

Q. CAN YOU -- YOU DON'T RECALL SPECIFIC INSTANCES WHERE YOU  
ADOPTED COMMANDS THAT OTHER PEOPLE WITHIN ARISTA FELT IT WAS A  
TERRIBLE DECISION OR A NONOPTIMAL DECISION, YOU NEVER RECALL  
THOSE CONVERSATIONS?

04:37PM

12

04:37PM

13

04:37PM

14

A. I DO NOT.

04:37PM

15

04:37PM

16

Q. OKAY. DO YOU RECALL BELIEVING THAT SOME OF THE CLI

04:37PM

17

COMMANDS SYNTAX ADOPTED BY CISCO WAS HORRIBLE, YOU DON'T RECALL  
THAT?

04:37PM

18

04:37PM

19

A. I DON'T RECALL EXACT WORDS, BUT THERE ARE COMMANDS WHERE I  
THOUGHT THEY COULD BE DONE IN A MORE CLEARER WAY.

04:37PM

20

04:37PM

21

Q. YOU NEVER SAID THE CLI COMMANDS FROM CISCO WERE HORRIBLE,  
YOU NEVER USED THOSE PHRASES?

04:37PM

22

04:37PM

23

A. I DON'T RECALL EXACT PHRASING.

04:37PM

24

Q. OKAY. TAKE A LOOK AT PAGE 300 OF YOUR DEPOSITION.

04:38PM

25

MR. PAK: AND YOUR HONOR, THIS IS PAGE 10 --

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:38PM 1 PAGE 300, LINE 10 TO 15. AND IF I COULD PLAY THE VIDEO  
04:38PM 2 TESTIMONY.

04:38PM 3 THE COURT: YES, YOU MAY.

04:38PM 4 MR. PAK: OKAY, LET'S GO AHEAD AND PLAY THAT.

04:38PM 5 (WHEREUPON, A VIDEO DEPOSITION WAS PLAYED IN OPEN COURT.)

04:38PM 6 BY MR. PAK:

04:38PM 7 Q. THAT WAS YOUR SWORN TESTIMONY, RIGHT, SIR?

04:38PM 8 A. YES.

04:38PM 9 Q. AND ISN'T IT ALSO TRUE THAT ARISTA REPLICATED SOME OF THE  
04:38PM 10 SCREEN OUTPUTS FROM CISCO'S PRODUCTS THAT ARE INVOKED BY THE  
04:38PM 11 USE OF CERTAIN CLI COMMANDS?

04:39PM 12 A. YES.

04:39PM 13 Q. AND THAT WAS DONE INTENTIONALLY BY ARISTA, CORRECT?

04:39PM 14 A. THAT'S RIGHT.

04:39PM 15 Q. AND WHEN YOU MADE THOSE DECISIONS, AGAIN, YOU NEVER  
04:39PM 16 CONTACTED CISCO ABOUT A LICENSE TO USE THE SCREEN OUTPUTS,  
04:39PM 17 CORRECT?

04:39PM 18 A. NO.

04:39PM 19 Q. AND ISN'T IT TRUE, SIR, THAT AS A TECHNICAL MATTER, ARISTA  
04:39PM 20 COULD HAVE USED A DIFFERENT USER INTERFACE THAN CISCO'S USER  
04:39PM 21 INTERFACE IN ORDER TO PROVIDE THE SAME NETWORKING FUNCTIONALITY  
04:39PM 22 IN ARISTA'S PRODUCTS?

04:39PM 23 A. CERTAINLY, THAT'S TECHNICALLY POSSIBLE.

04:39PM 24 Q. YOU COULD HAVE USED A GRAPHICAL USER INTERFACE, CORRECT?

04:39PM 25 A. THAT'S POSSIBLE, BUT I THINK THAT WOULD BE A VERY POOR

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:39PM 1 CHOICE GIVEN OUR TARGET MARKET OF GOING AFTER THE CLOUD

04:39PM 2 CUSTOMERS, WOULD NOT PEAK WELL TO A GRAPHICAL USER INTERFACE

04:39PM 3 BECAUSE THEY ARE DIFFICULT TO AUTOMATE.

04:39PM 4 Q. SO CLOUD CUSTOMERS, IN YOUR OPINION, ACTUALLY VALUE AND

04:39PM 5 PREFER THE CLI COMMANDS FROM CISCO; IS THAT TRUE?

04:39PM 6 A. NO. IN FACT, OUR CLOUD CUSTOMERS GENERALLY DON'T CARE VERY

04:40PM 7 MUCH WHAT THE DETAILS OF THE COMMANDS ARE BECAUSE THEY'VE

04:40PM 8 AUTOMATED TO THE POINT WHERE IF ONE SWITCH AND ANOTHER SWITCH

04:40PM 9 HAVE DIFFERENT COMMANDS SYNTAXES, THEY CHANGE THEIR AUTOMATION

04:40PM 10 FRAMEWORK IN ONE PLACE AND THEY ARE DONE WITH IT.

04:40PM 11 Q. SO YOU COULD HAVE USED ANY CLI COMMANDS OTHER THAN THOSE

04:40PM 12 USED BY CISCO TO SELL YOUR PRODUCTS TO THOSE CUSTOMERS; ISN'T

04:40PM 13 THAT TRUE?

04:40PM 14 A. I THINK THE CLOUD CUSTOMERS WOULD NOT CARE VERY MUCH WHAT

04:40PM 15 COMMAND SYNTAX WE USE.

04:40PM 16 Q. SO YOU COULD HAVE SOLD ARISTA SWITCHES TO CLOUD COMPUTER

04:40PM 17 CUSTOMERS WITHOUT USING ANY OF THE CLI COMMANDS FROM CISCO, IS

04:40PM 18 THAT TRUE?

04:40PM 19 A. I THINK THAT'S PROBABLY TRUE.

04:40PM 20 Q. AND YOU HAVE ALSO ADMITTED, SIR, THAT YOU COULD TAKE OUT

04:40PM 21 ALL OF THE CLI COMMANDS FROM CISCO AND STILL BE ABLE TO PRODUCE

04:40PM 22 A WORKING PRODUCT; ISN'T THAT TRUE?

04:40PM 23 A. WE HAVE TO REPLACE THEM WITH SOMETHING, IF YOU SIMPLY

04:40PM 24 REMOVE THEM AND DIDN'T REPLACE THEM WITH SOMETHING TO PROVIDE A

04:40PM 25 COMFORTABLE FUNCTIONALITY, THE SYSTEM WOULD NO LONGER BE

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:40PM 1

CONFIGUREABLE.

04:41PM 2

Q. WELL, YOU COULD REPLACE THEM WITH YOUR COMMANDS. YOU COULD

04:41PM 3

REPLACE THEM THE CISCO COMMAND WITH ARISTA'S OWN COMMANDS AND

04:41PM 4

YOUR PRODUCTS WOULD WORK JUST FINE; ISN'T THAT TRUE?

04:41PM 5

A. IT'S A LITTLE HYPOTHETICAL. I THINK WE WOULD HAVE TO COME

04:41PM 6

UP WITH AN ALTERNATIVE COMMAND LANGUAGE, BUT IT'S CERTAINLY

04:41PM 7

TECHNICALLY ACHIEVABLE.

04:41PM 8

Q. YOU CAN CERTAINLY REMOVE COMMANDS FROM YOUR PRODUCTS THAT

04:41PM 9

OVERLAP WITH CISCO'S CLI USER INTERFACE COMMANDS AS A TECHNICAL

04:41PM 10

MATTER; ISN'T THAT TRUE, SIR?

04:41PM 11

A. YES, YOU COULD REMOVE COMMANDS.

04:41PM 12

Q. AND IN FACT, YOU ACTUALLY HAVE AN INTERFACE CALLED

04:41PM 13

LINUX-INTERFACE THAT DOES NOT USE THE CISCO CLI COMMANDS; ISN'T

04:41PM 14

THAT TRUE?

04:41PM 15

A. THAT'S RIGHT.

04:41PM 16

Q. THAT'S CORRECT, RIGHT?

04:41PM 17

A. YES.

04:41PM 18

Q. AND YOU'VE SAID THAT YOU DON'T HAVE TO USE THE CLI IF YOU

04:41PM 19

DON'T WANT TO, THE NATIVE LINUX INTERFACES ARE ALL THERE AND

04:41PM 20

ABOUT 20 PERCENT OF OUR CUSTOMERS ADOPT A PURE LINUX APPROACH,

04:42PM 21

YOU'VE SAID THOSE THINGS, CORRECT?

04:42PM 22

A. I DID.

04:42PM 23

Q. YOU'VE HEARD A LOT ABOUT OPEN OR INDUSTRY STANDARD.

04:42PM 24

YOU'VE NEVER ASKED CISCO WHETHER CLI WAS AN OPEN STANDARD

04:42PM 25

THAT ANYONE CAN USE WITHOUT PERMISSION? YOU'VE NEVER ASKED

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:42PM 1 THAT QUESTION, HAVE YOU?

04:42PM 2 A. WE NEVER ASKED. CISCO WAS CLEAR ON HIS DATA SHEET THAT IT

04:42PM 3 WAS AN INDUSTRY STANDARD.

04:42PM 4 Q. YOU NEVER ASKED CISCO WHAT IT MEANT WHEN IT USED THE WORD

04:42PM 5 INDUSTRY STANDARD IN DESCRIBING ITS CLI, CORRECT?

04:42PM 6 A. WE DID NOT.

04:42PM 7 Q. OKAY. ARISTA NEVER PROPOSED ANY INDUSTRY STANDARD

04:42PM 8 ORGANIZATION TO STANDARDIZE CLI COMMANDS; ISN'T THAT TRUE?

04:42PM 9 A. NO, WE NEVER DID.

04:42PM 10 Q. NOR HAS ARISTA EVER TRIED TO ESTABLISH AN ORGANIZATION THAT

04:42PM 11 WOULD FORM AN INDUSTRY STANDARD FOR COMMAND-LINE INTERFACES;

04:42PM 12 ISN'T THAT TRUE?

04:42PM 13 A. WE FEEL THERE'S AN EXISTING INDUSTRY STANDARD THAT WORKS

04:42PM 14 QUITE WELL SO WE NEVER ESTABLISHED ABOUT ALTERNATIVE.

04:42PM 15 Q. YOU NEVER DID THAT, RIGHT, SIR?

04:43PM 16 A. THAT'S RIGHT.

04:43PM 17 Q. OKAY. AND YET YOU KNOW OF NO INDUSTRY RATIFIED STANDARD

04:43PM 18 TODAY THAT MANDATES THE USE OF CISCO CLI COMMANDS; ISN'T THAT

04:43PM 19 TRUE, SIR?

04:43PM 20 A. THAT'S RIGHT.

04:43PM 21 Q. OKAY.

04:43PM 22 MR. PAK: YOUR HONOR, IF I COULD TAKE A QUICK BREAK

04:43PM 23 TO SEE IF I NEED TO DO ANYTHING ELSE.

04:43PM 24 THE COURT: SURE.

04:43PM 25 (OFF-THE-RECORD DISCUSSION.)

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:43PM 1 MR. PAK: YOUR HONOR, I THINK I JUST HAVE ONE EXHIBIT  
04:43PM 2 TO MOVE INTO EVIDENCE, IT'S IN ACTUALLY A VIDEO CLIP EXHIBIT.

04:43PM 3 AND THIS IS EXHIBIT 203 IN YOUR BINDER, MR. DUDA.

04:44PM 4 AND THIS IS -- I DON'T BELIEVE IT'S OBJECTED TO, THIS IS  
04:44PM 5 A --

04:44PM 6 THE COURT: MR. SILBERT, IS THIS EXHIBIT OBJECTED TO?

04:44PM 7 MR. SILBERT: IF IT'S THE EXHIBIT I BELIEVE, THIS IS  
04:44PM 8 THE PACKET -- YES, WE DON'T OBJECT.

04:44PM 9 THE COURT: THEN IT WILL BE ADMITTED. YOU CAN  
04:44PM 10 DESCRIBE IT ON THE RECORD.

04:44PM 11 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 203, HAVING BEEN  
04:44PM 12 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:44PM 13 EVIDENCE.)

04:44PM 14 BY MR. PAK:

04:44PM 15 Q. YES, YOUR HONOR EXHIBIT 203 IS THE PACKET PUSHERS POD CAST  
04:44PM 16 VIDEO OF MR. DUDA SPEAKING ABOUT SOME OF THE ISSUES THAT WAS  
04:44PM 17 PRESENTED DURING THE OPENING STATEMENT?

04:44PM 18 MR. SILBERT: MAY I JUST CLARIFY, IS IT THE COMPLETE  
04:44PM 19 PACKET PUSHERS VIDEO OR IS IT AN EXCERPT?

04:44PM 20 MR. PAK: I BELIEVE IT'S THE COMPLETE VERSION.

04:44PM 21 MR. SILBERT: AS LONG AS IT'S THE COMPLETE ONE, WE  
04:44PM 22 HAVE NO OBJECTION.

04:44PM 23 MR. PAK: THANK YOU.

04:44PM 24 AND I WILL CONFIRM, BUT IF IT'S NOT THEN WE WILL CORRECT IT  
04:44PM 25 ON THE RECORD.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:44PM 1 THE COURT: ARE YOU GOING TO PLAY IT.

04:44PM 2 MR. PAK: NO, I'M NOT, YOUR HONOR. IT'S A LONG

04:44PM 3 VIDEO, I'M JUST ADMITTING IT. IT PERTAINS TO SOME OF THE

04:44PM 4 STATEMENTS WE HAVE HEARD.

04:44PM 5 I COULD ASK HIM SOME QUESTIONS OR PLAY IT.

04:45PM 6 THE COURT: I DON'T ALLOW DOCUMENTS TO SIMPLY BE

04:45PM 7 PUSHED ACROSS THE TABLE. IT'S NOT ADMITTED AT THIS TIME.

04:45PM 8 MR. PAK: SURE. LET ME PLAY THE PORTION OF THE

04:45PM 9 VIDEO, YOUR HONOR.

04:45PM 10 THE COURT: THAT WOULD BE FINE.

04:45PM 11 MR. PAK: SO THIS IS -- LOOKING AT -- LET'S PLAY THE

04:45PM 12 CLIP OF THE VIDEO. IT'S JUST THE AUDIO.

04:45PM 13 THE COURT: THE CLIPS, I WILL ADMIT IF THEY ARE

04:45PM 14 PLAYED IN COURT. NO OBJECTION TO THAT?

04:45PM 15 MR. SILBERT: NO OBJECTION.

04:45PM 16 MR. PAK: LET'S PLAY THOSE CLIPS.

04:45PM 17 (WHEREUPON, AN AUDIO CLIP WAS PLAYED IN OPEN COURT.)

04:46PM 18 MR. PAK: OKAY. WE CAN STOP THE CLIP THERE.

04:46PM 19 THANK YOU, YOUR HONOR.

04:46PM 20 THE COURT: ALL RIGHT. AND YOU CAN JUST SUBMIT A

04:46PM 21 TRANSCRIPT OF THAT CLIP.

04:46PM 22 MR. PAK: WE WILL DO SO.

04:46PM 23 Q. SO MR. DUDA, THANK YOU FOR YOUR TESTIMONY. AND I PASS THE

04:46PM 24 WITNESS AT THIS TIME.

04:46PM 25 THE COURT: ALL RIGHT.



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:46PM 1

04:46PM 2

**CROSS-EXAMINATION BY MR. SILBERT**

04:46PM 3

04:47PM 4

Q. GOOD AFTERNOON, MR. DUDA.

04:47PM 5

A. GOOD AFTERNOON.

04:47PM 6

Q. I'M ONLY GOING TO ASK YOU A COUPLE OF QUESTIONS NOW BECAUSE

04:47PM 7

YOU ARE GOING TO HAVE AN OPPORTUNITY TO COME BACK WHEN ARISTA

04:47PM 8

PRESENTS ITS CASE. BUT LET ME JUST START ON THE SUBJECT OF

04:47PM 9

CONFIDENTIAL INFORMATION.

04:47PM 10

DO YOU RECALL MR. PAK STARTED HIS EXAMINATION BY ASKING YOU  
ABOUT SOME DOCUMENTS THAT SAID, CISCO CONFIDENTIAL ON THEM?

04:47PM 11

04:47PM 12

A. YES.

04:47PM 13

Q. AND COULD WE -- COULD WE LOOK AT EXHIBIT 242, THAT MR. PAK  
SHOWED YOU. IT'S IN EVIDENCE.

04:47PM 14

04:48PM 15

IF YOU COULD LOOK AT THE NEXT PAGE OF IT, THE PRESENTATION  
THAT MR. PAK HAD YOU LOOK AT.

04:48PM 16

04:48PM 17

DO YOU RECALL HE HAD YOU LOOK AT THE LANGUAGE THAT SAYS,  
CISCO CONFIDENTIAL?

04:48PM 18

04:48PM 19

A. YES, I DO.

04:48PM 20

Q. LOOKING AT THE INFORMATION THAT YOU SAW ON THIS DOCUMENT,

04:48PM 21

DO YOU KNOW WHETHER OR NOT THIS IS CONFIDENTIAL INFORMATION OF  
CISCO?

04:48PM 22

04:48PM 23

A. NO. YOU CAN'T TELL FROM THE MARKING ON THE DOCUMENT

04:48PM 24

BECAUSE IT'S COMMON PRACTICE TO GIVE PUBLIC PRESENTATIONS OR

04:48PM 25

OTHERWISE COMMUNICATE IN PUBLIC WITH DOCUMENTS THAT ARE STILL

04:48PM 1

04:48 PM 2

04:48 PM 3

04:48PM 4

04:48 PM 5

04:48PM 6

04:48 PM 7

04:48 PM 8

04:48 PM 9

04:48PM 10

04:48PM 11

04:48 PM 12

04:49PM 13

04:49PM 14

04:49PM 15

04:49PM 16

04:49PM 17

04:49PM 18

04:49PM 19

04:49PM 20

04:49PM 21

04:49PM 22

04:49PM 23

04:49PM 24

04:49PM 25

THE COURT: THE OBJECTION IS OVERRULED.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:49PM 1 MR. PAK: THANK YOU, YOUR HONOR.

04:49PM 2 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 536, HAVING BEEN  
04:49PM 3 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:49PM 4 EVIDENCE.)

04:49PM 5 MR. SILBERT:

04:49PM 6 Q. MR. DUDA, WOULD YOU PLEASE READ WHAT YOU WROTE DOWN AT THE  
04:50PM 7 BOTTOM OF THIS E-MAIL?

04:50PM 8 A. YES. I WROTE, FOLKS, LET'S PLEASE NOT DISCUSS HOW NX-OS  
04:50PM 9 WORKS. WE DO NOT NEED OR WANT ANY CISCO-CONFIDENTIAL  
04:50PM 10 INFORMATION.

04:50PM 11 Q. OKAY. AND THE DATE AT THE TOP OF THIS E-MAIL SAYS JUNE 14,  
04:50PM 12 2014. DID YOU KNOW -- STRIKE THAT.

04:50PM 13 DID YOU HAVE ANY IDEA AT THAT TIME THAT CISCO WOULD ASSERT  
04:50PM 14 ANY TYPE OF LEGAL ACTION AGAINST ARISTA IN THE FUTURE?

04:50PM 15 A. NO, I HAD NO IDEA.

04:50PM 16 Q. OKAY. WHY DID YOU SAY IN THIS E-MAIL, WE DO NOT NEED OR  
04:50PM 17 WANT ANY CISCO CONFIDENTIAL INFORMATION?

04:50PM 18 A. BECAUSE IT'S TRUE. WE DON'T WANT TO MAKE USE OF  
04:50PM 19 CONFIDENTIAL INFORMATION. WE CAN DESIGN GREAT PRODUCTS ON OUR  
04:50PM 20 OWN. AND WE -- WOULDN'T BE RIGHT FOR US TO DO IT IF WE HAD IT.

04:51PM 21 Q. WOULD YOU PLEASE LOOK AT EXHIBIT 4667 IN YOUR BINDER. DO  
04:51PM 22 YOU RECOGNIZE THAT DOCUMENT?

04:51PM 23 A. YES.

04:51PM 24 Q. WHAT IS IT?

04:51PM 25 A. THIS IS AN E-MAIL MESSAGE SENT BY THE SAME ENGINEER TO ME.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:51PM 1 MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 4667.

04:51PM 2 MR. PAK: NO OBJECTION, YOUR HONOR.

04:51PM 3 THE COURT: IT WILL BE ADMITTED.

04:51PM 4 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 4667, HAVING BEEN  
04:51PM 5 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:51PM 6 EVIDENCE.)

04:51PM 7 BY MR. SILBERT:

04:51PM 8 Q. IF WE LOOK AT THE BOTTOM OF THE E-MAIL CHAIN THERE, THERE'S  
04:51PM 9 WHAT APPEARS TO BE AN E-MAIL FROM SOMEONE NAMED PRASAD KOYA?

04:51PM 10 A. THAT'S RIGHT.

04:51PM 11 Q. WHO IS PRASAD KOYA?

04:51PM 12 A. HE'S AN ENGINEER ON OUR TEAM.

04:51PM 13 Q. AND WOULD YOU PLEASE READ MR. KOYA'S E-MAIL TO YOU, IT'S  
04:51PM 14 RELATIVELY SHORT?

04:51PM 15 A. MR. KOYA WRITES, HI KEN, WE HAVE A FEW PICTURES THAT WE  
04:51PM 16 TOOK FROM PUBLICLY AVAILABLE CISCO DOC ON NX-OS. OTHER THAN  
04:51PM 17 THAT, MOST OF MATERIAL IS COMPILED BY US FROM OUR KNOWLEDGE OF  
04:52PM 18 NX-OS. NOT SURE IF THE LATTER WOULD FALL UNDER  
04:52PM 19 CISCO-CONFIDENTIAL CATEGORY.

04:52PM 20 Q. AND CAN YOU JUST PLEASE EXPLAIN TO THE JURY, WHAT WAS THE  
04:52PM 21 CONTEXT OF THIS E-MAIL?

04:52PM 22 A. THE CONTEXT WAS THAT A FEW ENGINEERS WANTED TO MAKE A  
04:52PM 23 PRESENTATION COMPARING HOW NX-OS WORKS, PERHAPS IN COMPARISON  
04:52PM 24 TO OUR SOFTWARE.

04:52PM 25 Q. AND WOULD YOU NOW IF YOU LOOK UP ONE E-MAIL IN THE CHAIN,

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:52PM 1 WHO WROTE THAT E-MAIL IN THE MIDDLE OF THE PAGE?

04:52PM 2 A. THIS IS MY RESPONSE BY ME TO PRASAD.

04:52PM 3 Q. SO WOULD YOU PLEASE READ INTO THE RECORD YOUR RESPONSE TO  
04:52PM 4 MR. KOYA?

04:52PM 5 A. I WROTE, UNFORTUNATELY WE WILL NOT BE ABLE TO SHOW THIS  
04:52PM 6 PRESENTATION. WHILE ARISTA OBVIOUSLY BENEFITS TREMENDOUSLY  
04:52PM 7 FROM YOUR GENERAL KNOW HOW, IT WOULD NOT BE RIGHT FOR ARISTA TO  
04:52PM 8 MAKE ANY USE OF ANY PRIOR ACCESS YOU MIGHT HAVE HAD TO ANY  
04:53PM 9 CISCO TRADE SECRETS OR CONFIDENTIAL OR PROPRIETARY INFORMATION.  
04:53PM 10 WE DID NOT AND WILL NOT DO THAT.

04:53PM 11 Q. OKAY. AND THE DATE ON THIS E-MAIL IS MAY 8, 2012, AT THAT  
04:53PM 12 TIME, DID YOU HAVE ANY NOTION IN YOUR MIND THAT CISCO WOULD ONE  
04:53PM 13 DAY FILE A LAWSUIT AGAINST YOU?

04:53PM 14 A. NONE.

04:53PM 15 Q. SO WHY DID YOU, IN RESPONSE TO MR. KOYA'S STATEMENT THAT HE  
04:53PM 16 WAS NOT SURE THAT THE INFORMATION WOULD FALL UNDER THE CISCO  
04:53PM 17 CONFIDENTIAL CATEGORY, WHY DID YOU WRITE THAT UNFORTUNATELY WE  
04:53PM 18 WILL NOT BE ABLE TO SHOW THE PRESENTATION, AND THE ADDITIONAL  
04:53PM 19 TEXT THAT YOU WROTE?

04:53PM 20 A. I SAID THAT TO MR. KOYA BECAUSE I WAS CONCERNED THAT HIS  
04:53PM 21 PRESENTATION MIGHT BE BASED ON HIS KNOWLEDGE OF NX-OS FROM HIS  
04:53PM 22 EMPLOYMENT AT CISCO AND IT WOULDN'T BE RIGHT FOR ARISTA TO MAKE  
04:53PM 23 ANY USE OF THAT KNOWLEDGE.

04:54PM 24 Q. OKAY.

04:54PM 25 THANK YOU, MR. DUDA. YOU CAN PUT THAT DOCUMENT ASIDE.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:54PM 1 DO YOU RECALL THAT MR. PAK ASKED YOU SOME QUESTIONS TODAY  
04:54PM 2 ABOUT HOW ARISTA CAME TO HAVE COMMANDS IN ITS CLI THAT ARE  
04:54PM 3 SIMILAR TO CISCO'S CLI?

04:54PM 4 A. YES.

04:54PM 5 Q. WERE YOU PERSONALLY INVOLVED IN MAKING A DECISION AT ARISTA  
04:54PM 6 TO USE AN INDUSTRY STANDARD CLI?

04:54PM 7 A. YES, I WAS.

04:54PM 8 Q. AND WHY DID YOU DO THAT?

04:54PM 9 A. IT SEEMED LIKE THE OBVIOUS THING TO DO. IT WAS WHAT ALMOST  
04:54PM 10 EVERY OTHER VENDOR IN THE ETHERNET SWITCHES MARKET ALREADY DID.

04:54PM 11 ALL VENDORS, ALMOST ALL VENDORS SHARE A COMMON APPROACH TO  
04:54PM 12 THE CLI THAT INCLUDES MANY COMMON COMMANDS, AND IT ONLY MADE  
04:54PM 13 SENSE FOR THE BENEFIT OF OUR CUSTOMERS TO FOLLOW THAT STANDARD  
04:54PM 14 APPROACH.

04:54PM 15 Q. DIDN'T ARISTA WANT TO SET ITSELF APART FROM THE REST OF THE  
04:55PM 16 INDUSTRY?

04:55PM 17 A. YES, OF COURSE. WE INNOVATED TREMENDOUSLY IN OUR PRODUCTS  
04:55PM 18 BUILDING SOME OF THE HIGHEST PERFORMANCE, MOST RELIABLE  
04:55PM 19 SWITCHES ON THE MARKET. BUT THE USER INTERFACE IS ONE PLACE  
04:55PM 20 MAYBE YOU SHOULDN'T INNOVATE. IF YOU THINK ABOUT, FOR EXAMPLE  
04:55PM 21 A TESLA CAR, HAS VERY INNOVATIVE ENGINE AND BATTERY AND  
04:55PM 22 EVERYTHING ELSE, BUT A VERY FAMILIAR STEERING WHEEL,  
04:55PM 23 ACCELERATOR PEDAL AND BRAKE, BECAUSE PEOPLE ARE USED TO A  
04:55PM 24 CERTAIN INTERFACE, IT'S MUCH EASIER TO THEM IF YOU CAN PROVIDE  
04:55PM 25 A SIMILAR INTERFACE.

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:55PM 1 Q. YOU USE THE TERM INDUSTRY STANDARD CLI IN YOUR TESTIMONY  
04:55PM 2 WITH MR. PAK, IS THAT A TERM THAT YOU WERE ALREADY USING AT THE  
04:55PM 3 TIME YOU DECIDED WHAT TYPE OF CLI TO USE AT ARISTA?

04:55PM 4 A. YES. THE TERM INDUSTRY STANDARD CLI HAS BEEN WIDELY USED  
04:55PM 5 IN OUR INDUSTRY BY MANY COMPANIES FOR MANY YEARS.

04:55PM 6 Q. WHEN DID -- WELL, WHAT DO YOU MEAN BY THE TERM INDUSTRY  
04:56PM 7 STANDARD CLI?

04:56PM 8 A. THE INDUSTRY STANDARD CLI IS A SET OF COMMON COMMANDS AND  
04:56PM 9 COMMON EXPECTATIONS FOR HOW COMMANDS WORK THAT APPLY ACROSS  
04:56PM 10 LOTS OF DIFFERENT DEVICES. THERE ARE THINGS THAT OUR CUSTOMERS  
04:56PM 11 EXPECT FROM THEIR DEVICES.

04:56PM 12 Q. IS THE INDUSTRY STANDARD CLI THE SAME THING AS THE IOS CLI?

04:56PM 13 A. WELL, CISCO SAYS THAT IT IS. AND I THINK THERE'S OBVIOUSLY  
04:56PM 14 A CONNECTION THERE BECAUSE A LOT OF THE INDUSTRY STANDARD  
04:56PM 15 APPROACH ORIGINATES FROM CISCO.

04:56PM 16 BUT THAT SAID, THEY ARE DIFFERENT THINGS. THE IOS CLI AT  
04:56PM 17 LEAST TECHNICALLY, IS ONE IMPLEMENTATION. BUT OFTEN PEOPLE USE  
04:56PM 18 THE TERM SORT OF INTERCHANGEABLY.

04:56PM 19 Q. WHEN DID YOU FIRST HEAR COMPANIES IN THE NETWORKING  
04:56PM 20 INDUSTRY USE THE TERM INDUSTRY STANDARD CLI?

04:56PM 21 A. OH, IT'S BEEN GOING ON FOR MANY YEARS. WHEN I WAS AT CISCO  
04:57PM 22 BACK IN THE LATE 1990'S, I WAS AWARE THAT OTHER VENDORS HAD  
04:57PM 23 SIMILAR COMMAND LINE INTERPRETERS ON THEIR PRODUCTS.

04:57PM 24 Q. WHEN YOU WERE AT CISCO IN THE LATE 1990'S, DID ANYONE EVER  
04:57PM 25 SUGGEST TO YOU THAT IT WAS SOMEHOW IMPROPER TO EMULATE CISCO'S

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:57PM 1 CLI?

04:57PM 2 A. NO, NOT AT ALL. IT WAS STANDARD PRACTICE, AND MY SENSE WAS  
04:57PM 3 THAT WE FELT IT GAVE THE COMPANY AN ADVANTAGE BECAUSE OTHERS  
04:57PM 4 WERE EFFECTIVELY FOLLOWING US.

04:57PM 5 Q. OKAY. CAN I ASK YOU PLEASE TO LOOK AT EXHIBIT 7748 IN YOUR  
04:57PM 6 BINDER.

04:57PM 7 THIS IS AN E-MAIL TO SEVERAL RECIPIENTS, INCLUDING THE  
04:57PM 8 ENG@ARASTRA.COM E-MAIL GROUP. WERE YOU A MEMBER OF THAT E-MAIL  
04:58PM 9 GROUP AT THE TIME THIS E-MAIL WAS SENT?

04:58PM 10 A. YES, I WAS.

04:58PM 11 Q. DID YOU RECEIVE THIS E-MAIL ON OR AROUND APRIL 23RD, 2008?

04:58PM 12 A. YES.

04:58PM 13 MR. SILBERT: YOUR HONOR, I MOVE EXHIBIT 7748 INTO  
04:58PM 14 EVIDENCE.

04:58PM 15 MR. PAK: NO OBJECTION, YOUR HONOR.

04:58PM 16 THE COURT: IT WILL BE ADMITTED.

04:58PM 17 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 7748, HAVING BEEN  
04:58PM 18 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO  
04:58PM 19 EVIDENCE.)

04:58PM 20 BY MR. SILBERT:

04:58PM 21 Q. THE SENDER OF THIS E-MAIL IS SOMEONE NAMED LORENZ  
04:58PM 22 REDLEFSEN, WHO WAS THAT?

04:58PM 23 A. HE WAS AN ENGINEER AT ARISTA.

04:58PM 24 Q. AND I THINK YOU COVERED THIS IN YOUR TESTIMONY EARLIER  
04:58PM 25 TODAY, BUT I NOTICE THE E-MAIL GROUP IS ARASTRA.COM, WHAT IS



DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

04:58PM 1

ARASTRA OR ARASTRA?

04:58PM 2

A. ARASTRA WAS THE ORIGINAL NAME OF OUR COMPANY BEFORE WE

04:58PM 3

CHANGED IT TO ARISTA.

04:58PM 4

Q. OKAY. THE SUBJECT LINE OF THIS E-MAIL IS BNT, LAUNCHES

04:58PM 5

RACK SWITCHES.

04:58PM 6

WHAT IS BNT?

04:59PM 7

A. BNT IS A COMPANY CALLED BLADE NETWORK TECHNOLOGIES, WHICH

04:59PM 8

AT THE TIME WAS A COMPETITOR TO BOTH ARISTA AND CISCO.

04:59PM 9

Q. AND LOOKING NOW AT THE FIRST SENTENCE OF THE E-MAIL, IT

04:59PM 10

SAYS, I LIKE THE FORMAT OF THEIR DATA SHEET, AND LET ME STOP

04:59PM 11

THERE, WHAT IS A DATA SHEET?

04:59PM 12

A. A DATA SHEET IS A DOCUMENT THAT COMPANIES PREPARE AND

04:59PM 13

PROVIDE TO CUSTOMERS OR PROSPECTIVE CUSTOMERS THAT DESCRIBES A

04:59PM 14

PRODUCT TYPICALLY IN TECHNICAL TERMS.

04:59PM 15

Q. AND LOOKING AT THE NEXT PARAGRAPH NOW IN THE E-MAIL, IT

04:59PM 16

BEGINS, THEY PLAY UP THE FACT THAT THEIR IS-CLI IS CISCO-LIKE

04:59PM 17

FOR OPTIMAL INTEROPERABILITY WITH CISCO OR OTHER VENDORS'S

04:59PM 18

NETWORKS.

04:59PM 19

HAVE YOU HEARD THE ACRONYM, IS-CLI USED BY BLADE NETWORKS?

04:59PM 20

A. YES.

04:59PM 21

Q. AND WHAT DO YOU UNDERSTAND THAT REFERS TO?

05:00PM 22

A. IT STANDS FOR INDUSTRY STANDARD COMMAND-LINE INTERFACE AND

05:00PM 23

REFERS TO THE COMMAND-LINE INTERFACE ON THE BNT SWITCH.

05:00PM 24

Q. OKAY. AND REFERRING TO THE STATEMENT THAT THE IS-CLI WAS

05:00PM 25

CISCO-LIKE FOR OPTIMAL INTEROPERABILITY WITH CISCO OR OTHER

DIRECT EXAMINATION OF MR. DUDA BY MR. PAK

05:00PM 1 VENDOR'S NETWORKS, WAS THAT STATEMENT, THAT TYPE OF STATEMENT  
05:00PM 2 UNUSUAL IN YOUR EXPERIENCE IN THE NETWORKING INDUSTRY?

05:00PM 3 A. NO, NOT AT ALL. VENDORS ARE QUITE OPEN ABOUT THEIR USE OF  
05:00PM 4 THE INDUSTRY STANDARD COMMAND LINE INTERPRETER AND HOW IT'S  
05:00PM 5 SIMILAR TO THE CISCO INTERPRETER.

05:00PM 6 Q. WHAT DOES IT MEAN FOR A SWITCH TO BE INTEROPERABLE WITH  
05:00PM 7 OTHER VENDOR'S NETWORKS?

05:00PM 8 A. I BELIEVE THAT TEXT REFERS TO THE NOTION THAT IF A CUSTOMER  
05:00PM 9 HAS TRAINED ITS NETWORK ENGINEERS ON THE DETAILS OF THE CISCO  
05:01PM 10 COMMAND-LINE INTERFACE, THEY CAN TAKE ADVANTAGE OF THAT  
05:01PM 11 TRAINING AND USE A SIMILAR COMMAND SET ON THE SWITCHES OF MANY  
05:01PM 12 DIFFERENT VENDORS, INCLUDING THE BNT SWITCH AND OTHER VENDORS,  
05:01PM 13 SINCE THEY ALL USE A SIMILAR SET OF COMMANDS.

05:01PM 14 Q. OKAY. AND WRAPPING UP WITH ONE FINAL QUESTION.

05:01PM 15 LOOKING AGAIN AT THIS LANGUAGE THAT THEY PLAY UP THE FACT  
05:01PM 16 THAT THEIR IS-CLI IS CISCO-LIKE FOR OPTIMAL INTEROPERABILITY  
05:01PM 17 WITH CISCO OR OTHER VENDOR'S NETWORKS, HOW WOULD A CISCO-LIKE  
05:01PM 18 CLI ENABLE INTEROPERABILITY WITH OTHER VENDOR'S NETWORKS?

05:01PM 19 A. THAT'S BECAUSE OTHER VENDORS ALSO HAVE A CISCO-LIKE CLI.

05:01PM 20 SO THE SAME TRAINING APPLIES ACROSS ALL OF THESE DIFFERENT  
05:01PM 21 TYPES OF SWITCHES FROM DIFFERENT VENDORS.

05:01PM 22 MR. SILBERT: THANK YOU, SIR. I THINK WE ARE DONE.

05:01PM 23 THE COURT: ALL RIGHT. WE HAVE REACHED THE END OF  
05:01PM 24 OUR DAY. ARE YOU DONE WITH YOUR QUESTIONING?

05:01PM 25 MR. SILBERT: I HAVE A BIT MORE.

05:01PM 1 THE COURT: THAT'S FINE, THEN MR. DUDA WILL RETURN  
05:01PM 2 TOMORROW MORNING.

05:01PM 3 ALL RIGHT, LADIES AND GENTLEMEN, WE HAVE REACHED THE END OF  
05:02PM 4 THE COURT DAY. TOMORROW WE DO START AT 9:00 A.M., SO KEEP THAT  
05:02PM 5 IN MIND.

05:02PM 6 PLEASE LEAVE YOUR NOTEBOOKS AND YOUR BINDERS AND YOUR  
05:02PM 7 BADGES HERE ON YOUR CHAIRS, AND I WILL SEE YOU TOMORROW  
05:02PM 8 MORNING.

05:02PM 9 AND MR. RUTE, DO YOU NEED TO STAY AND LET US KNOW YOUR  
05:02PM 10 STATUS? I'M SORRY, DO I HAVE THE WRONG -- WE HAD A SCHEDULING  
05:02PM 11 ISSUE. DO WE NEED TO DEAL WITH THAT?

05:02PM 12 JUROR: ME?

05:02PM 13 THE COURT: YEAH.

05:02PM 14 JUROR: NO.

05:02PM 15 THE COURT: OKAY. THANK YOU. THEN YOU ARE ALL  
05:02PM 16 EXCUSED.

05:02PM 17 THANK YOU.

05:02PM 18 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE  
05:03PM 19 PRESENCE OF THE JURY:)

05:03PM 20 THE COURT: ALL RIGHT. PLEASE BE SEATED.

05:03PM 21 JUST LOOKING TO SEE WHAT --

05:03PM 22 MR. VAN NEST: YOUR HONOR, MAY MR. DUDA BE EXCUSED  
05:03PM 23 FOR NOW?

05:03PM 24 THE COURT: YES. YES, PLEASE STEP DOWN. YES, THAT'S  
05:03PM 25 AN UNCOMFORTABLE PLACE TO HAVE TO SIT.

05:03PM 1 ALL RIGHT. ANY HOUSEKEEPING FOR THIS EVENING?

05:03PM 2 MR. VAN NEST: I DON'T THINK THERE'S ANYTHING FOR US,  
05:03PM 3 YOUR HONOR. I THINK, I'M SURE WE WILL HAVE SOMETHING FOR YOU  
05:03PM 4 AT 8:30.

05:03PM 5 THE COURT: I DIDN'T SEE ANYTHING, BUT --

05:03PM 6 MR. VAN NEST: BUT IT'S ONLY 5:00.

05:03PM 7 THE COURT: EXACTLY MY POINT. YES.

05:03PM 8 MR. VAN NEST: WHICH IS FINE. BUT WE DID JUST FILE,  
05:04PM 9 YOUR HONOR.

05:04PM 10 THE COURT: OKAY. I HAVE SOMETHING ABOUT OBJECTIONS  
05:04PM 11 TO DEPOSITIONS, BUT THAT'S NOT FOR TOMORROW. AND I NEED -- ARE  
05:04PM 12 THE DEPOSITION -- THIS IS CISCO, SORRY, THAT'S NOT YOURS,  
05:04PM 13 MR. VAN NEST.

05:04PM 14 MR. VAN NEST: I THINK WHAT WE FILED WERE SOME  
05:04PM 15 OBJECTIONS TO WITNESSES AND EXHIBITS THAT ARE EXPECTED TO COME  
05:04PM 16 UP TOMORROW.

05:04PM 17 I'M NOT SURE NOW WHAT WE FILED EXACTLY OR WHETHER THE  
05:04PM 18 WITNESSES WILL BE HERE TOMORROW, BUT WE WILL CERTAINLY CONFER  
05:04PM 19 WITH COUNSEL.

05:04PM 20 THE COURT: I JUST DON'T HAVE ANYTHING YET.

05:04PM 21 MR. VAN NEST: OKAY.

05:04PM 22 CERTAINLY IF THERE'S NOTHING FOR TOMORROW, BECAUSE WE'RE  
05:04PM 23 NOT GOING TO GET TO IT, WE WILL LET YOU KNOW THAT ON E-MAIL.

05:04PM 24 THE COURT: THAT WOULD BE GREAT. I REALLY APPRECIATE  
05:04PM 25 THAT. OKAY.

05:04PM 1 MR. VAN NEST: I WILL CONFER WITH MR. PAK.

05:04PM 2 THE COURT: I EXPECT TO SEE YOU AT 8:30, UNLESS I

05:04PM 3 HEAR OTHERWISE FROM YOU.

05:04PM 4 MR. VAN NEST: RIGHT.

05:04PM 5 THE COURT: OKAY. BUT CISCO'S OBJECTIONS TO

05:04PM 6 DEPOSITIONS ARE NOT FOR -- I DON'T NEED THAT FOR TOMORROW.

05:04PM 7 MR. PAK: I DON'T THINK YOU NEED THAT FOR TOMORROW,

05:04PM 8 YOUR HONOR.

05:04PM 9 THE COURT: OKAY. THAT SOUNDS GREAT.

05:04PM 10 MR. VAN NEST: WE WILL HAVE LIVE WITNESSES, I THINK

05:04PM 11 ALL DAY TOMORROW.

05:04PM 12 MR. PAK: THAT'S RIGHT, YOUR HONOR.

05:04PM 13 THE COURT: ALL RIGHT. THAT'S TERRIFIC.

05:05PM 14 THANK YOU ALL. I WILL SEE YOU TOMORROW MORNING.

05:05PM 15 (WHEREUPON, THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.)

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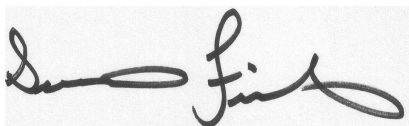
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**CERTIFICATE OF REPORTER**

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 11/29/16